



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 20] नई दिल्ली, मई 8—मई 14, 2011, शनिवार/वैशाख 18—वैशाख 24, 1933
No. 20] NEW DELHI, MAY 8—MAY 14, 2011, SATURDAY/VAISAKHA 18—VAISAKHA 24, 1933

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 12 मई, 2011

का. आ. 1282.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए आंध्र प्रदेश राज्य सरकार, गृह (एस.सी.ए.) विभाग दिनांक 20 अप्रैल, 2011 की अधिसूचना सं. जी.ओ.एम.एस. सं. 93 द्वारा प्राप्त सहमति से वानकिडी पुलिस स्टेशन जिला अदीलाबाद में भारतीय दंड संहिता की धारा 149 के साथ पठित धारा 147, 148, 307 भारतीय शस्त्र अधिनियम की धारा 25 (1-बी), 27 तथा विधिविरुद्ध क्रियाकलाप निवारण अधिनियम, 1967 तथा दंड प्रक्रिया संहिता की धारा 174 के अंतर्गत पंजीकृत केस सं. 40/2010 तथा उपर्युक्त उल्लिखित अपराध के संबंध में प्रयास, दुष्प्रेरण और षडयंत्र तथा उसी संव्यवहार के अनुक्रम में उन्हीं तथ्यों से उद्भूत किन्हीं अन्य अपराध या अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस

स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार सम्पूर्ण आंध्र प्रदेश राज्य के संबंध में करती है।

[फा. सं. 228/34/2011-एवीडी-II]

अशोक के. के. मीणा, निदेशक (वी-II)

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 12th May, 2011

S. O. 1282.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Andhra Pradesh, Home (SC.A) Department vide Notification No. G. O. Ms. No. 93 dated 20th April, 2011, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Andhra Pradesh for the investigation of Crime No. 40/2010 registered under sections 147, 148, 307 read with Section 149 of

Indian Penal Code, Section 25 (1-B), 27 of Indian Arms Act, Section 10 and 13 of Unlawful Activities Prevention Act, 1967 and Section 174 Criminal Procedure Code registered at Wankidi Police Station, Adilabad District and any attempt, abetment and conspiracy in relation to or in connection with the above mentioned offence and any other offence or offences committed in course of the same transaction or arising out of the same facts.

[F.No. 228/34/2011-AVD-II]

ASHOK K. K. MEENA, Director (V-II)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

दिल्ली, 5 मई, 2011

क्र. आ. 1283.—राष्ट्रीयक बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 (ज) और (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, डॉ नरेश कुमार ड्राल (जन्म तिथि 10-01-1962), को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, बैंक ऑफ महाराष्ट्र के निदेशक मण्डल में अंशकालिक गैर-सरकारी निदेशक के रूप में नामित करती है।

[फा. सं. 3/3/2010-बीओ-1]

समीर के. सिन्हा, निदेशक

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 5th May, 2011

S. O. 1283.—In exercise of the powers conferred by of sub-section 3(h) and (3-A) of Section 9 of The Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of The Nationalised Banks (Management & Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominates Dr. Naresh Kumar Drall (DoB : 10-01-1962) as part-time non-official director on the Board of Directors of Bank of Maharashtra for a period of three years from the date of notification of his appointment or until further orders, whichever is the earlier.

[F.No. 3/3/2010-BO-I]

SAMIR K. SINHA, Director

नई दिल्ली, 10 मई, 2011

क्र. आ. 1284.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग

करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से एतद्वारा, श्री रशपाल मल्होत्रा (जन्म तिथि 10-11-1936), को उनकी नियुक्ति की अधिसूचना की तारीख से एक वर्ष और तीन महीने की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, भारतीय स्टेट बैंक के केन्द्रीय निदेशक मण्डल में अंशकालिक गैर-सरकारी निदेशक के रूप में नामित करती है।

[फा. सं. 6/44/2010-बीओ-1]

समीर के. सिन्हा, निदेशक

New Delhi, the 10th May, 2011

S. O. 1284.—In exercise of the powers conferred by clause (d) of Section 19 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India hereby nominates Shri Rashpal Malhotra (DOB : 10-11-1936) as part-time non-official Director on the Central Board of Directors of State Bank of India for a period of one year and three months with effect from the date of notification of his appointment or until further orders, whichever is earlier.

[F.No. 6/44/2010-BO-I]

SAMIR K. SINHA, Director

नई दिल्ली, 11 मई, 2011

क्र. आ. 1285.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10 की धारा 53 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा, घोषित करती है कि उक्त अधिनियम की धारा 15 की उप-धारा (1) के उपबंध वित्तीय वर्ष 2010-11, 2011-12 और 2012-13 के लिए सार्वजनिक क्षेत्र के बैंकों और निम्नलिखित निजी क्षेत्र के बैंकों यथा कैथोलिक सिरियन बैंक लि., धनलक्ष्मी बैंक लि., फेडरल बैंक लि., आईएनजी वैश्य बैंक लि., कर्णाटक बैंक लि., करुर वैश्य बैंक लि., लक्ष्मी विलास बैंक लि., नैनीताल बैंक लि., रत्नाकर बैंक लि. और साउथ इंडियन बैंक लि. पर लागू नहीं होंगे, जहाँ तक उनका संबंध पेंशन का एक और विकल्प देने और उपादान सीमाओं में वृद्धि के कारण हुए व्यय के विवेचन से है, जिसे अपरिशोधित आगे ले जाने वाले व्यय के रूप में माना जाएगा।

[फा. सं. 10/3/2010-बीओए]

एम. एम. दौला, अवर सचिव

New Delhi, the 11th May, 2011

S. O. 1285.—In exercise of the powers conferred by sub-section (1) of Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of Reserve Bank of India, hereby declares that the provisions of sub-section (1) of Section 15 of the said Act shall not apply to the Public Sector Banks and the following private sector banks viz., Catholic Syrian Bank Ltd., Dhanlaxmi Bank Ltd., Federal Bank Ltd.;

ING Vysya Bank Ltd; Karnataka Bank Ltd; Karur Vysya Bank Ltd; Laxmi Vilas Bank Ltd; Nainital Bank Ltd; Ratnakar Bank Ltd; and South Indian Bank Ltd; in so far as treatment of the expenditure on account of one more option for pension and enhancement in gratuity limits, for the financial years 2010-11, 2011-12 and 2012-13 being treated as unamortised carry forward expenditure.

[F.No. 10/3/2010-BOA]
M. M. DAWLA, Under Secy.

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 5 मई, 2011

का. आ. 1286.—राजनयिक और कौंसलीय ऑफीसर (शपथ और फीस) के अधिनियम 1948 की धारा 2 के खंड (क) के अनुसरण में, केंद्र सरकार एतद्वारा श्री रविन्द्र सिंह, सहायक को 5 मई, 2011 से भारत के उच्चायोग विक्टोरिया, माहे (सेशेल्स) में महायक कौंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[सं. टी. 4330/1/2006]
आर. के. पेरिन्डिया, अवर सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(C.P.V. Division)

New Delhi, the 5th May, 2011

S. O. 1286.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorize shri ravindra Singh, Assistant in the High Commission of India, Victoria, Mahe (Seychelles) to perform the duties of Assistant Consular Officer with effect from 5th May, 2011

[No. T-4330/01/2006]
R. K. PERINDIA Under Secy. (Consular)

सूचना एवं प्रसारण मंत्रालय

नई दिल्ली, 6 मई, 2011

का. आ. 1287.—चलचित्र अधिनियम (प्रमाणन) नियम, 1983 के नियम 9 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 घ की उप-धारा (2) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार श्री वी. पैकिरिसामी, निदेशक, फिल्म प्रमाणन, मुंबई को दिनांक 25 अप्रैल, 2011 की पूर्वाह्न से प्रतिनियुक्ति आधार पर चार वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केन्द्रीय फिल्म प्रमाणन बोर्ड, चेन्नै के क्षेत्रीय अधिकारी के रूप में नियुक्त करती है।

[फा. सं. 801/1/2009-एफ (सी)]
अमिताभ कुमार निदेशक (फिल्म)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 6th May, 2011

S. O. 1287.—In exercise of the powers conferred by sub-section (2) of Section 5D of the Cinematograph Act, 1952 (37 of 1952) read with Rule 9 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Shri V. Packirisamy, Director, Films Division, Mumbai as Regional Officer, Central Board of Film Certification, Chennai on deputation basis with effect from the forenoon of 25th April, 2011 for a period of four years or until further orders, whichever is earlier.

[F.No. 801/01/2009-F(C)]
AMITABH KUMAR, Director (Films)

दिल्ली, 6 मई, 2011

का. आ. 1288.—चलचित्र अधिनियम (प्रमाणन) नियम, 1983 के नियम 9 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 घ की उप-धारा (2) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार श्री जितेन्द्र प्रताप सिंह, आईआरएस (सीएंडसीई:2000) संयुक्त आयुक्त, केन्द्रीय उत्पाद शुल्क, कोलकाता-II को दिनांक 4 मार्च, 2011 की पूर्वाह्न से प्रतिनियुक्ति आधार पर चार वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, केन्द्रीय फिल्म प्रमाणन बोर्ड, मुंबई के क्षेत्रीय अधिकारी के रूप में नियुक्त करती है।

[फा. सं. 801/13/2009-एफ (सी)]

अमिताभ कुमार निदेशक (फिल्म)

New Delhi, the 6th May, 2011

S. O. 1288.—In exercise of the powers conferred by sub-section (2) of Section 5D of the Cinematograph Act, 1952 (37 of 1952) read with Rule 9 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Shri Jitendra Pratap Singh, IRS (C&CE:2000) Joint Commissioner, Central Excise, Kolkata-II as Regional Officer, Central Board of Film Certification, Mumbai on deputation basis with effect from the forenoon of 4th March, 2011 for a period of four years or until further orders, whichever is earlier.

[F.No. 801/13/2009-F(C)]
AMITABH KUMAR, Director (Films)

नई दिल्ली, 6 मई, 2011

का. आ. 1289.—इस मंत्रालय की दिनांक 10-11-2009 की समसंख्यक अधिसूचना के क्रम में और चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 व 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार श्री संजय सतीश दत्त, शक्ति निवास, सम्मर्बांग लेन नं. 5, कल्याण (पश्चिम)-421301 को

दो वर्षों की अवधि के लिए या अगले आदेशों तक, इनमें से जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड, मुंबई सलाहकार पैनल के सदस्य के रूप में नियुक्त करती है।

[फा. सं. 809/7/2009-एफ (सी)]

अमिताभ कुमार निदेशक (फिल्म)

New Delhi, the 6th May, 2011

S. O. 1289.—In continuation of this Ministry's Notification of even number, dated 10-11-2009 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with Rule 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Shri Sanjay Satish Dutt, Shakti Nivas, Rambaug Lane No.5, Kalyan (W)-421301 as a member of the Mumbai Advisory panel of the Central Board of Film Certification, with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/7/2009-F(C)]

AMITABH KUMAR, Director (Films)

नागर विमानन मंत्रालय

(एआई अनुभाग)

नई दिल्ली, 10 मई, 2011

का. आ. 1290.—एअर इंडिया चार्टर्स लिमिटेड संघ के अनुच्छेद-22 के तहत प्रदत्त शक्तियों का प्रयोग करते हुए राष्ट्रपति, एतद्वारा एयर चीफ मार्शल फाली एच. मेजर (सेवानिवृत्त) को इस अधिसूचना के जारी होने की तारीख से अथवा अगले आदेशों, जो भी पहले हो, तक 03 वर्ष की अवधि के लिए एअर इंडिया चार्टर्स लिमिटेड के निदेशक मण्डल में गैर शासकीय अंशकालिक निदेशक के रूप में नियुक्त करते हैं।

[सं.-एवी- 18013/001/2008-एआई]

एस. के. छिकारा, अवर सचिव

MINISTRY OF CIVIL AVIATION

(AI Section)

New Delhi, the 10th May, 2011

S. O. 1290.—In exercise of the powers conferred under Section 22 of the Articles of Association of the Air India Charters Limited, the President is pleased to appoint Air Chief Marshal Fali H. Major (Retd.) as Non-official Part-time Director on the Board of Air India Charters Limited for a period of 3 years with effect from the date of issue of the notification or until further orders, whichever event occurs earlier.

[No. AV.-18013/001/2008-AI]

S. K. CHHIKARA, Under Secy.

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 11 अप्रैल, 2011

का. आ. 1291.—केंद्र सरकार, दंत चिकित्सा अधिनियम, 1948 (1948 का 16) की धारा (10) की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय दन्त चिकित्सा परिषद से परामर्श करके, उक्त अधिनियम की अनुसूची के भाग-1 में निम्नलिखित और संशोधन करती है, नामतः—

2. क्रम सं. 38 के सामने कॉलम 2 एवं 3 की मौजूदा प्रविष्टियों में दंत चिकित्सा अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग-1 में, जो एल एन मिथिला विश्वविद्यालय, दरभंगा (बिहार) द्वारा प्रदान की गई दंत चिकित्सा डिग्रियों की मान्यता से संबंधित हैं, निम्नलिखित प्रविष्टियों को इसके अंतर्गत अंतर्विष्ट किया जाएगा :—

“VI मिथिला अल्पसंख्यक दंत कालेज एवं अस्पताल, दरभंगा (बिहार)

“(i) बैचलर आफ डेंटल सर्जरी	बीडी एस,
(यदि दिनांक 9-1-2011	एल एन मिथिला
को अथवा उसके बाद	विश्वविद्यालय, दरभंगा
प्रदान की गई हो)	(बिहार) ”

[फा. सं. वी.-12025/16/2000-डी ई(खंड IV)]

अनिता त्रिपाठी, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 11th April, 2011

S. O. 1291.—In exercise of the powers conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with the Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In the existing entries of column 2 & 3 against Serial No. 38, in Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to recognition of dental degrees awarded by L. N. Mithila University, Darbhanga (Bihar), the following entries shall be inserted thereunder :—

“VI Mithila Minority Dental College & Hospital Darbhanga (Bihar).

(i) Bachelor of Dental Surgery	BDS, L. N. Mithila
(if granted on or after 9-1-2011)	University,
	Darbhanga (Bihar).”

[F.No. V.12025/16/2000-DE (Vol. IV)]

ANITA TRIPATHI, Under Secy.

मानव संसाधन विकास मंत्रालय

(उच्चतर शिक्षा विभाग)

नई दिल्ली, 20 अप्रैल, 2011

का.आ. 1292.—सरकारी स्थान अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 में प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा नीचे तालिका के कॉलम (1) में उल्लिखित अधिकारी को उक्त अधिनियम के प्रयोजनार्थ सरकार के राजपत्रित अधिकारी के समतुल्य अधिकारी श्रेणी में संपदा अधिकारी नियुक्त करती है जो उक्त अधिनियम द्वारा अथवा उसके तहत प्रदत्त शक्तियों का प्रयोग करेगा और उक्त तालिका के कॉलम (2) में विनिर्दिष्ट सार्वजनिक परिसरों के संबंध में उसके क्षेत्राधिकार की स्थानीय सीमाओं के भीतर संपदा अधिकारी को सौंपे गए कार्यों को निष्पादित करेगा।

तालिका

अधिकारी का पदनाम	सार्वजनिक परिसरों की श्रेणी और क्षेत्राधिकार की स्थानीय सीमाएं
(1)	(2)
परियोजना इंजीनियर, भारतीय प्रौद्योगिकी संस्थान, मंडी	भारतीय प्रौद्योगिकी संस्थान, मंडी से संबंधित अथवा उसके द्वारा अथवा उसकी ओर से अधिग्रहीत अथवा पट्टे पर लिए गए परिसर।

[एफ. सं. 14-25 /2010 टीएस-1]

प्रिस्का मैथ्यू, अवर सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Higher Education)

New Delhi, the 20th April, 2011

S.O. 1292.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being the officer equivalent to the rank of gazetted officers of the Government, to be estate officer for the purposes of the said Act, who shall exercise the powers conferred and perform the duties imposed, on estate officer by or under the said Act, within the local limits of his jurisdiction in respect of the public premises specified in column (2) of the said Table.

TABLE

Designation of the officer	Categories of public premises and local limits of jurisdiction
(1)	(2)
Project Engineer, Indian Institute of Technology, Mandi.	Premises belonging to, or taken on lease or requisitioned by or on behalf of the Indian Institute of Technology, Mandi.

[F.No.14-25 /2010-TS-I]

PRISCA MATHEW, Under Secy.

नई दिल्ली, 20 अप्रैल, 2011

का.आ. 1293.—सरकारी स्थान अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 में प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा नीचे तालिका के कॉलम (1) में उल्लिखित अधिकारी को उक्त अधिनियम के प्रयोजनार्थ सरकार के राजपत्रित अधिकारी के समतुल्य अधिकारी श्रेणी में संपदा अधिकारी नियुक्त करती है जो उक्त अधिनियम द्वारा अथवा उसके तहत प्रदत्त शक्तियों का प्रयोग करेगा और उक्त तालिका के कॉलम (2) में विनिर्दिष्ट सार्वजनिक परिसरों के संबंध में उसके क्षेत्राधिकार की स्थानीय सीमाओं के भीतर संपदा अधिकारी को सौंपे गए कार्यों को निष्पादित करेगा।

तालिका

अधिकारी का पदनाम	सार्वजनिक परिसरों की श्रेणी और क्षेत्राधिकार की स्थानीय सीमाएं
(1)	(2)
परियोजना इंजीनियर, भारतीय प्रौद्योगिकी संस्थान, रोपड़	भारतीय प्रौद्योगिकी संस्थान, रोपड़ से संबंधित अथवा उसके द्वारा अथवा उसकी ओर से अधिग्रहीत अथवा पट्टे पर लिए गए परिसर।

[एफ. सं. 14-25 /2010 टीएस-1]

प्रिस्का मैथ्यू, अवर सचिव

New Delhi, the 20th April, 2011

S. O. 1293.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being the officer equivalent to the rank of gazetted officers of the Government, to be estate officer for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed, on Estate Officer by or under the said Act, within the local limits of his jurisdiction in respect of the public premises specified in column (2) of the said Table.

TABLE

Designation of the officer	Categories of public premises and local limits of jurisdiction
(1)	(2)
Registrar, Indian Institute of Technology, Ropar.	Premises belonging to, or taken on lease or requisitioned by or on behalf of the Indian Institute of Technology, Ropar.

[F.No.14-25/2010-TS-I]

PRISCA MATHEW, Under Secy.

नई दिल्ली, 20 अप्रैल, 2011

का.आ. 1294.—सरकारी स्थान अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 में प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा नीचे तालिका के कॉलम (1) में उल्लिखित अधिकारी को उक्त अधिनियम के प्रयोजनार्थ सरकार के राजपत्रित अधिकारी के समतुल्य अधिकारी श्रेणी में संपदा अधिकारी नियुक्त करती है जो उक्त अधिनियम द्वारा अथवा उसके तहत प्रदत्त शक्तियों का प्रयोग करेगा और उक्त तालिका के कॉलम (2) में विनिर्दिष्ट सार्वजनिक परिसरों के संबंध में उसके क्षेत्राधिकार की स्थानीय सीमाओं के भीतर संपदा अधिकारी को सौंपे गए कार्यों को निष्पादित करेगा।

तालिका	
अधिकारी का पदनाम	सार्वजनिक परिसरों की श्रेणी और क्षेत्राधिकार की स्थानीय सीमाएं
(1)	(2)
परियोजना इंजीनियर, भारतीय प्रौद्योगिकी संस्थान, हैदराबाद	भारतीय प्रौद्योगिकी संस्थान, हैदराबाद से संबंधित अथवा उसके द्वारा अथवा उसकी ओर से अधिग्रहीत अथवा पट्टे पर लिए गए परिसर।

[एफ. सं. 14-25/2010 टीएस-1]

प्रिस्का मैथ्यू, अवर सचिव

New Delhi, the 20th April, 2011

S. O. 1294.—In exercise of the powers conferred by Section 3 of the Public Premises (Erection of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being the officer equivalent to the rank of gazetted officers of the Government, to be estate officer for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed, on Estate Officer by or under the said Act, within the local limits of his jurisdiction in respect of the public premises specified in column (2) of the said Table.

TABLE

Designation of the officer	Categories of public premises and local limits of jurisdiction
(1)	(2)
Executive Engineer, Indian Institute of Technology, Hyderabad.	Premises belonging to, or taken on lease or requisitioned by or on behalf of the Indian Institute of Technology, Hyderabad.

[F.No.14-25/2010-TS-1]

PRISCA MATHEW, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 5 मई, 2011

का. आ. 1295.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम सं.	संशोधित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 2549:1994- प्रक्रमित लौह क्षेप्य (स्क्रेप) का वर्गीकरण रीति संहिता (पहला पुनरीक्षण)	संशोधन संख्या 3 अप्रैल, 2011	30-4-2011

इस संशोधन की प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: एमटीडी 4/टी-2]

पी. घोष, वैज्ञानिक 'एफ' एवं प्रमुख (एमटीडी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 5th May, 2011

S. O. 1295.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

SLNo.	No. and Title of the Standard (s)	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 2549:1994 Code for classification of processed ferrous scrap (first revision)	Amendment No. 3 April, 2011	30-4-2011

Copies of these amendment are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: MTD 4/T-2]

P. GHOSH, Scientist 'F' & Head (Met Engg.)

नई दिल्ली, 5 मई, 2011

का. आ. 1296.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि भारतीय मानकों के विवरण नीचे अनुसूची में दिये गये हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों) की संख्या और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	'आई एस 15916: 2010 पूर्व सविरचित कंक्रीट प्रयुक्त भवन का डिजाइन और स्थापन -रीति संहिता'	—	30 नवम्बर, 2010
2.	'आई एस 15917: 2010 मिश्रित/संयुक्त निर्माण प्रयुक्त भवन का डिजाइन और स्थापन -रीति संहिता'	—	30 नवम्बर, 2010

इस भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 5th May, 2011

S.O. 1296.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. and year of the Indian Standards Established and Title	No. and Year of the Indian Standards, if any, superseded by the New Indian Standards	Date of Established
(1)	(2)	(3)	(4)
1.	'IS 15916:2010 Building Design and Erection using Prefabricated Concrete—Code of Practice'	—	30 November, 2010
2.	'IS 15917:2010 Building Design and Erection using Mixed/Composite Construction—Code of Practice'	—	30 November, 2010

Copy of the Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 6 मई, 2011

का.आ. 1297.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	'आई एस 15911: 2010 सामान्य गुणता के संरचना इस्पात - विशिष्टि'	—	31 मई, 2011

इस भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एमटीडी 04/टी-29]

पी घोष, वैज्ञानिक 'एफ' एवं प्रमुख (एमटीडी)

New Delhi, the 6th May, 2011

S. O. 1297.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. and year of the Indian Standards Established	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standards	Date of Established
(1)	(2)	(3)	(4)
1.	IS 15911:2010 Structural steel (Ordinary quality)—Specification	—	31 May, 2011

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: MTD 04/T-29]

P. GHOSH, Scientist 'F' & Head (MTD)

नई दिल्ली, 5 मई, 2011

का. आ. 1298.—केन्द्र सरकार, का. आ. 2353 तारीख 8 अगस्त, 2008 के तहत राजपत्र में प्रकाशित इस विभाग की अधिसूचना के क्रम में और कार्मिक और प्रशिक्षण विभाग के दिनांक 2 फरवरी, 2011 के आदेश सं. 12/2/2011-ई.ओ. (एस एम I) के अनुसरण में भारतीय मानक ब्यूरो अधिनियम, 1986 (1986 का 63) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री शरद गुप्ता, भा.प्र.से. (असम:77) को 1 फरवरी, 2011 के पूर्वाह्न से अगले आदेशों तक महानिदेशक के पद को अस्थायी आधार पर सचिव के रैंक और वेतन अर्थात् 80,000 रुपए (नियत) में अपग्रेड करके स्वस्थाने उन्नयन के आधार पर भारतीय मानक ब्यूरो के महानिदेशक के पद पर नियुक्त करती हैं।

[सं. 2/3/2008-बी आई एस]

किशन पाल, अवर सचिव

New Delhi, the 5th May, 2011

S.O. 1298.—In continuation of this Departments Notification published in the official gazette vide S.O. 2353 dated 8th August, 2008 and in pursuance of Department of Personnel & Training's Order No. 12/2/2011-EO (SM.I) dated 2nd February, 2011 the Central Government in exercise of the powers conferred by sub-section (1) of Section 7 of the Bureau of Indian Standards Act, 1986 (63 of 1986), appoint Shri Sharad Gupta, IAS (AM:77) as Director General in the Bureau of Indian Standards on in situ elevation basis by temporarily upgrading the post of Director General in the rank and pay of Secretary i.e. Rs. 80,000- (fixed) with effect from the forenoon of 1st February, 2011 and until further orders.

[No. 2/3/2008-BIS]

KISHAN PAL, Under Secy.

नई दिल्ली, 10 मई, 2011

का.आ. 1299.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिया गया है वे स्थापित हो गये हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस /आई सी 61730-2:1994 प्रकाशवोल्टीय (पी वी) मॉड्यूल सुरक्षा अर्हता भाग 2 परीक्षण अपेक्षाएं	—	10 मई, 2011

इस भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: ईटी 28/टी-37]

आर. के. त्रेहन, वैज्ञानिक 'ई' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 10th May, 2011

S. O. 1299.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :—

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standards	Date of Established
(1)	(2)	(3)	(4)
1.	IS/IEC 61730-2:2004 Photovoltaic (PV) Module Safety Qualification Part 2 requirements for testing	—	10 May, 2011

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: ET28/T-37]

R. K. TREHAN, Scientist 'E' & Head (Electrotechnical)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 5 मई, 2011

का. आ. 1300.—केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि गुजरात राज्य में सलाया से उत्तर प्रदेश राज्य में मथुरा तक पेट्रोलियम कूड के परिवहन के लिए "सलाया-मथुरा पाइपलाइन के अंतर्गत डी-बॉटलनेकिंग परियोजना" के कार्यान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए।

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां जन साधारण को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, उसमें उपयोग के अधिकार का अर्जन करने या भूमि के नीचे पाइपलाइन बिछाए जाने के संबंध में, श्री भीम सिंह, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पाइपलाइन विभाग, 33, मुक्तानंद नगर, गोपालपुरा बाईपास, जयपुर-302018 (राजस्थान) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : नसीराबाद जिला : अजमेर		राज्य : राजस्थान			
क्रम	ग्राम का नाम	खसरा संख्या	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
1	अन्सरी	957	00	00	90
		958	00	05	90
		959	00	04	80
		963	00	02	90
		964 (सरकारी भूमि)	00	08	10
		965 (सरकारी भूमि)	00	02	30
		966	00	00	40
		967 (सरकारी भूमि)	00	00	60
		968	00	00	80
		978 (सरकारी भूमि)	00	11	40
		986 (सरकारी भूमि)	00	34	00
		987 (सा.नि.वि.)	00	04	20

(1)	(2)	(3)	(4)	(5)	(6)
1.	अन्सरी (जारी) 1339		00	00	20
	1341 (सरकारी भूमि)		00	14	40
	1345 (सरकारी भूमि)		00	04	00
	1348/1428 (सरकारी भूमि)		00	00	80
	1350 (सरकारी भूमि)		00	03	10
2.	बनेवडा				
	1226 (सरकारी भूमि)		00	07	30
	1225 (सरकारी भूमि)		00	02	10
	1112		00	03	70
	114/2546		00	07	10
	1122		00	05	80
	1114/2748		00	02	70
	1121		00	05	90
	1120		00	00	20
	1124		00	03	20
	1125		00	04	30
	1126		00	06	10
	1128		00	11	00
	1134		00	08	00
	5 (सरकारी भूमि)		00	00	20
	5/2846		00	08	90
	1108 (ग्राम पंचायत भूमि)		00	09	00
	1146		00	07	00
	1147 (सरकारी भूमि)		00	01	00
	1104/2753				
	(सरकारी भूमि)		00	32	10
	1150 (सरकारी भूमि)		00	00	20
	1153 (ग्राम पंचायत भूमि)		00	11	20
	1104 (सरकारी भूमि)		00	01	70
	1049		00	01	70
	1048		00	03	80
	1047		00	02	10
	1051		00	00	20
	1052		00	01	40
	1059		00	01	70
	1060		00	00	20
	1061/2677		00	00	60
	1058		00	00	20
	1061		00	04	40
	1061/2669 (सरकारी भूमि)		00	01	40
	1063		00	00	80
	1062 (सरकारी भूमि)		00	02	00
	1041 (सरकारी भूमि)		00	00	70
	1015 (सरकारी भूमि)		00	01	80
	1000 (सरकारी भूमि)		00	03	10
	985 (सरकारी भूमि)		00	02	90
	986		00	07	70

(1) (2)	(3)	(4)	(5)	(6)	(1) (2)	(3)	(4)	(5)	(6)
2. बनेवडा	981	00	02	40	2. बनेवडा	876/2537	00	00	20
(जारी)	980	00	02	80	(जारी)	873	00	00	20
	979	00	02	80		874 (सरकारी भूमि)	00	02	70
	978	00	00	60		866 (सरकारी भूमि)	00	05	30
	990	00	01	50		703	00	07	30
	1537	00	05	50		704	00	04	30
	973/2631	00	01	40		702	00	03	90
	1538	00	03	40		702/2805	00	05	30
	1539	00	01	40		706/2740 (ग्राम पंचायत भूमि)	00	00	40
	1541	00	04	40		701	00	02	40
	1555 (सरकारी भूमि)	00	00	90		697 (ग्राम पंचायत भूमि)	00	06	60
	1557 (सरकारी भूमि)	00	11	60		698	00	02	60
	1557/2830 (सरकारी भूमि)	00	10	20		695	00	01	90
	1578 (सरकारी भूमि)	00	02	20	3. अजबा का	430	00	04	20
	1598	00	04	40	बाडिया	431	00	01	00
	1600/2773	00	01	90		429	00	07	70
	1599 (सरकारी भूमि)	00	00	20		428	00	03	20
	1601	00	01	30		427	00	01	60
	1602	00	03	20		426	00	04	80
	1603	00	02	60		417	00	02	30
	1604	00	03	80		491	00	02	10
	1594	00	00	40		492/1059	00	02	00
	1606	00	03	50		492	00	03	40
	1607	00	00	60		493	00	03	40
	1617	00	02	40		508	00	01	00
	1616	00	03	90		508/1039			
	1622	00	00	60		512	00	01	70
	1626	00	04	10		511	00	03	30
	1627 (सरकारी भूमि)	00	02	50		509	00	02	70
	1628 (सरकारी भूमि)	00	01	80		510	00	02	70
	1629	00	00	20		502	00	00	20
	1631	00	02	60		501	00	04	50
	1632	00	02	10		659	00	00	30
	1632/2690 (सरकारी भूमि)	00	00	30		660	00	04	70
	1635	00	00	60		662	00	08	70
	892	00	00	30		663	00	00	20
	891	00	02	10		690	00	00	30
	891/2743	00	02	20		687	00	06	20
	1658	00	11	00		688	00	01	60
	885	00	07	80		686	00	02	90
	1662/2619	00	00	40		681	00	02	70
	1662	00	03	50		66	00	08	50
	878	00	00	20		67/1085	00	00	20
	877	00	04	30		65	00	01	50
	876	00	05	00		64	00	02	00
	875	00	04	80	4. बाघसुरी	447	00	04	30

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
4.	बाधसुरी	448	00	00	20	धोलादाता	1348		00	00	70
	(जारी)	460	00	04	10	(बुबानिया) (जारी)	1349		00	00	20
		460/4182	00	02	70		1350		00	11	80
		461	00	00	20		1351		00	05	40
		459	00	06	00		1358		00	00	30
		458	00	02	40		1359		00	06	50
		470	00	06	50		1360		00	12	20
		471	00	00	20		1331		00	10	30
		473	00	00	20		1328		00	00	20
		472	00	05	20		1329		00	06	00
		486	00	02	70		1373		00	06	60
		456 (सरकारी भूमि)	00	01	40		1374		00	02	00
		455	00	01	40		1375		00	09	20
		520	00	04	00		1386		00	00	20
		521 (सा.नि.वि.)	00	03	50		1376		00	00	90
5.	धोलादाता	153	00	01	80		1377		00	06	80
	(बुबानिया)	188	00	07	60		1378		00	03	60
		187	00	00	80		1303		00	01	80
		191	00	12	50		1298		00	06	10
		191/1398 (सरकारी भूमि)	00	00	80		1299		00	00	60
		189	00	00	90		1297		00	00	30
		192	00	04	00		1296		00	03	70
		174	00	02	30	6. बुबानिया	814		00	09	90
		173	00	00	30		813		00	09	00
		193	00	01	40		822 (सरकारी भूमि)		00	05	40
		194	00	01	80		893		00	16	20
		195	00	03	30		895		00	08	30
		209	00	03	30		906		00	15	30
		206	00	00	20		905		00	12	40
		207	00	02	70		909		00	00	20
		208	00	00	20		904		00	06	80
		205	00	00	60		910		00	05	40
		204	00	15	50		2257 (सरकारी भूमि)		00	01	50
		203	00	05	40		2258		00	07	20
		225 (सरकारी भूमि)	00	04	00		2259		00	02	10
		242	00	01	30		2274		00	04	50
		241	00	04	20		2268		00	04	50
		238	00	06	80		2269		00	24	50
		245	00	17	30		2246		00	12	30
		246 (सरकारी भूमि)	00	00	20		2245		00	01	90
		247 (सा.नि.वि.)	00	00	20		2244 (सरकारी भूमि)		00	11	60
		249	00	02	00		2243 (सरकारी भूमि)		00	02	50
		252	00	11	40		2242 (सरकारी भूमि)		00	01	80
		251	00	01	80		2241		00	08	90
		262	00	01	70		2240		00	01	10
		1347	00	00	70		2210		00	12	80

(1) (2)	(3)	(4)	(5)	(6)	(1) (2)	(3)	(4)	(5)	(6)
(बुबानिया) (जारी)	2209 (सरकारी भूमि)	00	02	60	मोतीपुरा (जारी)	220	00	00	20
	2205	00	17	30		219	00	08	10
	2204	00	01	50		218	00	00	50
	2203	00	07	90		183	00	00	40
	2202 (सरकारी भूमि)	00	04	40		184/1272	00	04	00
	2201	00	01	20		184	00	11	40
	2189	00	11	10		185	00	00	20
	2187	00	01	40		186	00	04	70
	2188	00	05	90		187	00	02	10
	2180	00	06	90		188 (सरकारी भूमि)	00	00	20
	2171 (सरकारी भूमि)	00	01	00		189 (सरकारी भूमि)	00	00	40
	2179	00	00	20		167	00	07	90
	2121	00	04	30		400	00	00	80
	2120	00	02	90		385	00	10	70
	2119	00	07	40		382	00	06	60
	2118	00	03	40		381	00	06	00
	2113	00	04	60		386	00	01	90
	2114	00	05	10		495	00	00	50
	2102	00	05	50		1008	00	17	80
	2101	00	04	00		1010	00	00	50
	1942	00	02	60		1006	00	05	70
	1941	00	00	20		1001	00	00	70
	1929 (सरकारी भूमि)	00	00	70		1005	00	08	50
	1922 (सरकारी भूमि)	00	00	80		992	00	14	10
	1923	00	13	30		984	00	05	80
	1925 (सरकारी भूमि)	00	07	00		991	00	00	70
	1926 (सरकारी भूमि)	00	05	20		990	00	06	20
	1927 (सरकारी भूमि)	00	00	50		989	00	02	00
	1731 (सरकारी भूमि)	00	04	00		986	00	07	60
	1733 (सरकारी भूमि)	00	00	70		987	00	05	40
	1738 (सरकारी भूमि)	00	14	00		978	00	01	30
	1739 (सरकारी भूमि)	00	14	70		979	00	02	00
	1746 (सरकारी भूमि)	00	00	80		977	00	06	10
	1747 (सरकारी भूमि)	00	04	10		976/1275	00	00	40
	1760 (सरकारी भूमि)	00	17	70		1015 (सरकारी भूमि)	00	07	70
	1761 (सरकारी भूमि)	00	03	60		1037/1319	00	00	20
	1759	00	01	20		1021	00	02	30
	1749 (सरकारी भूमि)	00	00	40		1022	00	00	30
	1750	00	01	80		1020	00	02	40
7. मोतीपुरा	93/1350	00	02	00		1019	00	02	60
	93	00	13	10		968	00	00	20
	93/1257	00	00	30		1029	00	00	20
	225	00	01	60		1028	00	00	50
	222/1304	00	03	80		967	00	04	70
	222	00	03	50		963	00	07	00
	223	00	04	70	8. चाट	538	00	11	40

(1) (2)	(3)	(4)	(5)	(6)	(1) (2)	(3)	(4)	(5)	(6)
चाट (जारी)	57	00	04	30	धोलादाता (देरादू)	869 (सरकारी भूमि)	00	00	40
	56 (सरकारी भूमि)	00	00	60	(जारी)	862	00	02	90
	77 (सरकारी भूमि)	00	06	20		863	00	03	30
	78	00	03	60		861	00	00	80
	82	00	00	20		860 (सरकारी भूमि)	00	00	40
	80	00	02	10		859 (सरकारी भूमि)	00	03	60
	81	00	04	40		858	00	02	90
	46	00	07	40		528/1157 (सरकारी भूमि)	00	00	50
	47	00	00	60		531 (सरकारी भूमि)	00	08	10
	25	00	03	20		532 (सरकारी भूमि)	00	00	40
	26	00	02	80		533 (सरकारी भूमि)	00	04	80
	21	00	00	50		535 (सरकारी भूमि)	00	00	40
	27	00	01	60		536	00	00	80
	15	00	00	30		778 (सरकारी भूमि)	00	24	80
	29	00	00	60		791 (सरकारी भूमि)	00	03	60
	30 (सरकारी भूमि)	00	00	60		790	00	03	10
	14	00	00	30		789	00	06	20
	110	00	00	20		787	00	03	60
	111	00	01	80		786	00	00	30
	112	00	02	00		784	00	00	20
	142 (सरकारी भूमि)	00	02	80		528 (सरकारी भूमि)	00	00	20
9. जगपुरा	129 (सरकारी भूमि)	00	05	90		785	00	04	00
	156	00	02	20		767	00	06	20
	587	00	02	30		763	00	04	30
	574	00	04	40		757	00	09	50
	575	00	03	80		758	00	01	90
	570	00	08	30		755 (सरकारी भूमि)	00	10	40
	569	00	02	50	11. देरादू	5898	00	00	80
	569/630	00	03	10		5897	00	07	20
	557 (सरकारी भूमि)	00	02	10		5896	00	06	90
10. धोलादाता	472/1206 (सरकारी भूमि)	00	01	70		5895	00	04	80
(देरादू)	477	00	01	10		5919	00	02	60
	475	00	03	50		5920	00	01	70
	476 (सरकारी भूमि)	00	00	80		5921	00	05	00
	492	00	06	00		5886	00	02	00
	491 (सरकारी भूमि)	00	00	40		5922	00	01	70
	490	00	02	30		5885	00	00	60
	488	00	10	00		5923	00	04	70
	489	00	01	50		5867 (सरकारी भूमि)	00	02	40
	486	00	04	40		5868 (सरकारी भूमि)	00	00	80
	485	00	04	70		5866	00	01	20
	526 (सरकारी भूमि)	00	01	30		5865	00	02	20
	889	00	00	60		5864 (सरकारी भूमि)	00	02	80
	871	00	01	10		5863 (सरकारी भूमि)	00	00	90
	870	00	01	30		5831 (सरकारी भूमि)	00	01	00
	870/1165	00	00	20		5832 (सरकारी भूमि)	00	00	80

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
11.	देरादू	5604	00	02	20	11.	देरादू	4948/7041 (सा.नि.वि.)	00	03	30
	(जारी)	5603	00	03	80		(जारी)	4941	00	00	50
		5584	00	03	10			4942	00	06	60
		5583	00	08	10			4943	00	01	50
		5575	00	01	00			4944	00	02	00
		5590	00	00	40			4947	00	03	80
		5592	00	10	80			4946	00	02	10
		5571	00	09	40			4911	00	05	00
		5570	00	00	30			4900	00	00	90
		5565	00	03	40			4902	00	00	20
		5564	00	03	10			4901	00	06	20
		5557	00	00	80			4903	00	06	90
		5553	00	01	90			4904	00	02	50
		5549	00	02	20			4895	00	01	00
		5549/7476	00	01	00			4877 (सरकारी भूमि)	00	02	60
		5628 (सरकारी भूमि)	00	02	40			4876 (सरकारी भूमि)	00	01	00
		5629 (ग्राम पंचायत भूमि)	00	07	90			4875 (सरकारी भूमि)	00	00	80
		5546 (सरकारी भूमि)	00	01	30			4855 (सरकारी भूमि)	00	00	20
		5502	00	02	40			4868	00	00	40
		5469	00	00	90			4862	00	14	90
		5470	00	01	60			4864	00	05	40
		5471	00	01	20			4863	00	03	80
		5501	00	00	20			4821	00	09	30
		5472	00	04	00			4823 (सरकारी भूमि)	00	01	30
		5474	00	00	20			4806 (सरकारी भूमि)	00	01	90
		5475	00	02	00			4792	00	11	80
		5476	00	02	30			4787	00	07	90
		5477	00	01	60			4788 (सरकारी भूमि)	00	04	40
		5478	00	00	20			4786	00	06	20
		5479	00	03	30			4785	00	03	90
		5480	00	02	00			4780	00	05	90
		5486	00	01	80			4779/7037	00	01	40
		5483	00	00	50			4779	00	03	70
		5337	00	07	20			4778/7622	00	01	60
		5356 (सरकारी भूमि)	00	01	60			4781	00	01	60
		5357 (सरकारी भूमि)	00	00	80			4777	00	00	20
		5056	00	01	70			4767	00	10	20
		5052	00	10	40			4768	00	01	50
		5046	00	00	40			4766	00	03	20
		5047	00	02	60			4765	00	06	00
		5044	00	03	00			4764	00	05	00
		5041	00	02	90			4760	00	03	00
		5040	00	02	60			4752	00	03	00
		5039	00	00	20			4751	00	00	20
		5038 (सरकारी भूमि)	00	00	40			4749	00	00	80
		5036 (सरकारी भूमि)	00	00	90			4750	00	04	60

(1) (2)	(3)	(4)	(5)	(6)	(1) (2)	(3)	(4)	(5)	(6)
11. देरादू	4745 (सरकारी भूमि)	00	01	10	13. सनोद	4977	00	09	50
(जारी)	4194 (सरकारी भूमि)	00	08	90	(जारी)	4976/6440	00	02	40
	4302	00	00	20		4976/6439 (सरकारी भूमि)	00	02	80
	4583 (सरकारी भूमि)	00	07	50		4976	00	13	60
	4581 (सरकारी भूमि)	00	02	20		4974 (सरकारी भूमि)	00	01	20
	4368	00	00	30		4973 (सरकारी भूमि)	00	01	60
	4369	00	03	10		4973/6627	00	02	30
	4370	00	03	50		5191/6626	00	11	50
	4580	00	02	10		5191	00	08	90
	4579	00	02	00		5191/6623 (सरकारी भूमि)	00	06	70
	4578	00	05	00		5192/6784 (सिंचाई विभाग)	00	01	70
	4577	00	02	20		5193 (सरकारी भूमि)	00	00	70
	4575	00	02	00		5195	00	06	80
	4574	00	02	00		5224	00	07	70
	4572	00	02	40		5226	00	14	80
	4379	00	00	80		5228	00	07	60
	4570 (सरकारी भूमि)	00	03	00		5228/6415	00	00	20
	4569	00	03	20		5271	00	07	60
	4568 (सरकारी भूमि)	00	00	60		5272	00	02	10
	4541	00	00	20		5273	00	06	70
	4538	00	05	00		5274	00	01	60
	4539	00	01	30		5276	00	02	00
	4540	00	08	20		5275	00	10	30
	4544	00	07	00		5287	00	04	40
	4545	00	04	50		5297	00	02	00
	4549	00	01	20		5298	00	00	20
	4552	00	00	20		5298/6351	00	00	40
	4550	00	06	50		5300	00	00	20
	4554 (ग्राम पंचायत भूमि)	00	03	00		5300/6608	00	05	20
	4556 (ग्राम पंचायत भूमि)	00	01	20		5302	00	00	50
	4557 (ग्राम पंचायत भूमि)	00	08	10		5305	00	03	30
	4521 (सरकारी भूमि)	00	02	50		5304	00	00	20
	4520 (ग्राम पंचायत भूमि)	00	03	80		5305/6347 (सरकारी भूमि)	00	02	80
12. लोहारवाडा	145 (सरकारी भूमि)	00	89	40		5303 (सरकारी भूमि)	00	00	40
13. सनोद	4889/5492 (सरकारी भूमि)	00	69	20		5314	00	02	80
	4996/6794 (सरकारी भूमि)	00	01	20		5316	00	00	40
	4996 (सरकारी भूमि)	00	20	50		5315 (सरकारी भूमि)	00	12	30
	4957 (सरकारी भूमि)	00	05	00		5325/6796 (सरकारी भूमि)	00	00	20
	4981/6432	00	11	50		5326 (सरकारी भूमि)	00	01	00
	4981 (सरकारी भूमि)	00	04	40		5327	00	15	60
	4982	00	05	20		5328 (सरकारी भूमि)	00	10	60
	4983	00	04	40		5328/6792 (सरकारी भूमि)	00	01	30
	4983/6444	00	00	40		5327/6661	00	16	40
	4984/6443	00	02	70		5329 (सरकारी भूमि)	00	01	80
	4984/6445 (सरकारी भूमि)	00	00	20		5330	00	17	70
	4984	00	08	90		5349	00	01	30

(1) (2)	(3)	(4)	(5)	(6)	(1) (2)	(3)	(4)	(5)	(6)
13. सनोद	5348	00	03	60	14. रामसर	7403	00	01	30
(जारी)	5347	00	05	40	(जारी)	7404 (सरकारी भूमि)	00	00	20
	5345	00	00	20		7401 (सरकारी भूमि)	00	02	10
	5346/6321	00	02	50		7388 (सरकारी भूमि)	00	00	70
	5346	00	00	20		7374	00	00	20
	5342	00	04	80		7376	00	05	00
	5333	00	01	70		7377	00	04	50
	5334 (सरकारी भूमि)	00	29	50		7377/10362	00	01	10
14. रामसर	7706 (सरकारी भूमि)	00	05	40		7374	00	01	70
	7705 (सरकारी भूमि)	00	01	00		7381	00	03	20
	7694 (सरकारी भूमि)	00	09	90		7371/10361 (सरकारी भूमि)	00	04	70
	7695 (सरकारी भूमि)	00	07	10		7372 (सरकारी भूमि)	00	01	20
	7696 (सरकारी भूमि)	00	01	90		8190/10376 (सरकारी भूमि)	00	04	20
	7698 (सरकारी भूमि)	00	15	40		8190/10377 (सरकारी भूमि)	00	07	50
	7697 (सरकारी भूमि)	00	00	20		7358	00	02	20
	7603	00	01	10		7357 (सरकारी भूमि)	00	00	20
	7612 (सरकारी भूमि)	00	01	50		9158 (सरकारी भूमि)	00	16	10
	7613 (सरकारी भूमि)	00	10	90		9159 (सरकारी भूमि)	00	00	60
	7680/10337	00	01	20		7355 (सरकारी भूमि)	00	00	20
	7680 (सरकारी भूमि)	00	13	80		9160 (सरकारी भूमि)	00	07	10
	7679	00	04	30		7354 (सरकारी भूमि)	00	02	40
	7679/10394 (सरकारी भूमि)	00	01	30		7352	00	02	00
	7678/10341 (सरकारी भूमि)	00	00	60		7352/10618	00	02	90
	7678/10339	00	01	00		7352/10677	00	03	20
	7678/10338	00	00	20		7348	00	03	30
	7678 (सरकारी भूमि)	00	38	00		7346	00	05	50
	7669/10351	00	02	80		7345	00	02	60
	7672	00	00	90		9160/10617	00	07	20
	7671/10354	00	09	50		7342 (सरकारी भूमि)	00	01	20
	7671 (सरकारी भूमि)	00	04	30		4231 (सरकारी भूमि)	00	01	60
	7670 (सरकारी भूमि)	00	01	00		4342	00	01	10
	7481/10372 (सरकारी भूमि)	00	06	70		7334 (सरकारी भूमि)	00	02	50
	7481	00	06	80		7337	00	00	40
	7481/10370	00	03	90		7335	00	00	80
	7468	00	08	00		7336	00	01	90
	7468/10357	00	00	20		7333	00	02	90
	7450	00	01	20		7331	00	02	10
	7449	00	06	00		7293	00	00	80
	7449/10358 (सरकारी भूमि)	00	00	30		7294	00	03	70
	7437	00	05	80		7288	00	03	30
	7438	00	00	40		7287	00	00	40
	7435	00	02	20		7284	00	04	10
	7434	00	03	20		7285	00	01	20
	7408	00	03	80		7280	00	03	00
	7409	00	02	50		7243	00	02	30
	7405	00	03	40		7244	00	04	70

बी. के. दत्ता, अवर सचिव

Sl. No.	Name of Village	Khasra No.	Area		
			Hect-	Are	Sq. Metre
1.	Ansari	957	00	00	90
		958	00	05	90
		959	00	04	80
		963	00	02	90
		964 (Govt. Land)	00	08	10
		965 (Govt. Land)	00	02	30
		966	00	00	40
		967 (Govt. Land)	00	00	60
		968	00	00	80
		978 (Govt. Land)	00	11	40
		986 (Govt. Land)	00	34	00
		987 (P.W.D.)	00	04	20
		1339	00	00	20
		1341 (Govt. Land)	00	14	40

(1) (2)	(3)	(4)	(5)	(6)	(1) (2)	(3)	(4)	(5)	(6)
1. Ansari	1345 (Govt. Land)	00	04	00	2. Banewara	981	00	02	40
(Contd.)	1348/1428 (Govt. Land)	00	00	80	(contd.)	980	00	02	80
	1350 (Govt. Land)	00	03	10		979	00	02	80
2. Banewara	1226 (Govt. Land)	00	07	30		978	00	00	60
	1225 (Govt. Land)	00	02	10		990	00	01	50
	1112	00	03	70		1537	00	05	50
	1114/2546	00	07	10		973/2631	00	01	40
	1122	00	05	80		1538	00	03	40
	1114/2748	00	02	70		1539	00	01	40
	1121	00	05	90		1541	00	04	40
	1120	00	00	20		1555 (Govt. Land)	00	00	90
	1124	00	03	20		1557 (Govt. Land)	00	11	60
	1125	00	04	30		1557/2830 (Govt. Land)	00	10	20
	1126	00	06	10		1578 (Govt. Land)	00	02	20
	1128	00	11	00		1598	00	04	40
	1134	00	08	00		1600/2773	00	01	90
	5 (Govt. Land)	00	00	20		1599 (Govt. Land)	00	00	20
	5/2846	00	08	90		1601	00	01	30
	1108 (Gram Panchayat Land)	00	09	00		1602	00	03	20
	1146	00	07	00		1603	00	02	60
	1147 (Govt. Land)	00	01	00		1604	00	03	80
	1104/2753					1594	00	00	40
	(Gram Panchayat Land)	00	32	10		1606	00	03	50
	1150 (Govt. Land)	00	00	20		1607	00	00	60
	1153 (Gram Panchayat Land)	00	11	20		1617	00	02	40
	1104 (Govt. Land)	00	01	70		1616	00	03	90
	1049	00	01	70		1622	00	00	60
	1048	00	03	80		1626	00	04	10
	1047	00	02	10		1627 (Govt. Land)	00	02	50
	1051	00	00	20		1628 (Govt. Land)	00	01	80
	1052	00	01	40		1629	00	00	20
	1059	00	01	70		1631	00	02	60
	1060	00	00	20		1632	00	02	10
	1061/2677	00	00	60		1632/2690 (Govt. Land)	00	00	30
	1058	00	00	20		1635	00	00	60
	1061	00	04	40		892	00	00	30
	1061/2669 (Govt. Land)	00	01	40		891	00	02	10
	1063	00	00	80		891/2743	00	02	20
	1062 (Govt. Land)	00	02	00		1658	00	11	00
	1041 (Govt. Land)	00	00	70		885	00	07	80
	1015 (Govt. Land)	00	01	80		1662/2619	00	00	40
	1000 (Govt. Land)	00	03	10		1662	00	03	50
	985 (Govt. Land)	00	02	90		878	00	00	20
	986	00	07	70		877	00	04	30
						876	00	05	00
						875	00	04	80

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
2.	Banewara	876/2537	00	00	20	4.	Baghsuri	447	00	04	30
	(contd.)	873	00	00	20			448	00	00	20
		874 (Govt. Land)	00	02	70			460	00	04	10
		866 (Govt. Land)	00	05	30			460/4182	00	02	70
		703	00	07	30			461	00	00	20
		704	00	04	30			459	00	06	00
		702	00	03	90			458	00	02	40
		702/2805	00	05	30			470	00	06	50
		706/2740 (Gram	00	00	40			471	00	00	20
		Panchayat Land)						473	00	00	20
		701	00	02	40			472	00	05	20
		697 (Gram Panchayat	00	06	60			486	00	02	70
		Land)						456 (Govt. Land)	00	01	40
		698	00	02	60			455	00	01	40
		695	00	01	90			520	00	04	00
			00	04	20			521 (P.W.D.)	00	03	50
3.	Ajba ka	430	00	04	20	5.	Dholadanta	153	00	01	80
	bariya	431	00	01	00		(Bubaniya)	188	00	07	60
		429	00	07	70			187	00	00	80
		428	00	03	20			191	00	12	50
		427	00	01	60			191/1398 (Govt. Land)	00	00	80
		426	00	04	80			189	00	00	90
		417	00	02	30			192	00	04	00
		491	00	02	10			174	00	02	30
		492/1059	00	02	00			173	00	00	30
		492	00	03	40			193	00	01	40
		493	00	03	40			194	00	01	80
		508	00	01	00			195	00	03	30
		508/1039 }						209	00	03	30
		512	00	01	70			206	00	00	20
		511	00	03	30			207	00	02	70
		509	00	02	70			208	00	00	20
		510	00	02	70			205	00	00	60
		502	00	00	20			204	00	15	50
		501	00	04	50			203	00	05	40
		659	00	00	30			225 (Govt. Land)	00	04	00
		660	00	04	70			242	00	01	30
		662	00	08	70			241	00	04	20
		663	00	00	20			238	00	06	80
		690	00	00	30			245	00	17	30
		687	00	06	20			246 (Govt. Land)	00	00	20
		688	00	01	60			247 (P.W.D.)	00	00	20
		686	00	02	90			249	00	02	00
		681	00	02	70			252	00	11	40
		66	00	08	50			251	00	01	80
		67/1085	00	00	20						
		65	00	01	50						
		64	00	02	00						

(1) (2)	(3)	(4)	(5)	(6)	(1) (2)	(3)	(4)	(5)	(6)
5. Dholadanta	262	00	01	70	6. Bubaniya	2240	00	01	10
(Bubaniya)	1347	00	00	70	(Contd.)	2210	00	12	80
(Contd.)	1348	00	00	70		2209 (Govt. Land)	00	02	60
	1349	00	00	20		2205	00	17	30
	1350	00	11	80		2204	00	01	50
	1351	00	05	40		2203	00	07	90
	1358	00	00	30		2202 (Govt. Land)	00	04	40
	1359	00	06	50		2201	00	01	20
	1360	00	12	20		2189	00	11	10
	1331	00	10	30		2187	00	01	40
	1328	00	00	20		2188	00	05	90
	1329	00	06	00		2180	00	06	90
	1373	00	06	60		2171 (Govt. Land)	00	01	00
	1374	00	02	00		2179	00	00	20
	1375	00	09	20		2121	00	04	30
	1386	00	00	20		2120	00	02	90
	1376	00	00	90		2119	00	07	40
	1377	00	06	80		2118	00	03	40
	1378	00	03	60		2113	00	04	60
	1303	00	01	80		2114	00	05	10
	1298	00	06	10		2102	00	05	50
	1299	00	00	60		2101	00	04	00
	1297	00	00	30		1942	00	02	60
	1296	00	03	70		1941	00	00	20
6. Buoaniya	814	00	09	90		1929 (Govt. Land)	00	00	70
	813	00	09	00		1922 (Govt. Land)	00	00	80
	822 (Govt. Land)	00	05	40		1923	00	13	30
	893	00	16	20		1925 (Govt. Land)	00	07	00
	895	00	08	30		1926 (Govt. Land)	00	05	20
	906	00	15	30		1927 (Govt. Land)	00	00	50
	905	00	12	40		1731 (Govt. Land)	00	04	00
	909	00	00	20		1733 (Govt. Land)	00	00	70
	904	00	06	80		1738 (Govt. Land)	00	14	00
	910	00	05	40		1739 (Govt. Land)	00	14	70
	2257 (Govt. Land)	00	01	50		1746 (Govt. Land)	00	00	80
	2258	00	07	20		1747 (Govt. Land)	00	04	10
	2259	00	02	10		1760 (Govt. Land)	00	17	70
	2274	00	04	50		1761 (Govt. Land)	00	03	60
	2268	00	04	50		1759	00	01	20
	2269	00	24	50		1749 (Govt. Land)	00	00	40
	2246	00	12	30		1750	00	01	80
	2245	00	01	90	7. Motipura	93/1350	00	02	00
	2244 (Govt. Land)	00	11	60		93	00	13	10
	2243 (Govt. Land)	00	02	50		93/1257	00	00	30
	2242 (Govt. Land)	00	01	80		225	00	01	60
	2241	00	08	90		222/1304	00	03	80

(1) (2)	(3)	(4)	(5)	(6)	(1) (2)	(3)	(4)	(5)	(6)
7. Motipura	222	00	03	50	8. Chat	538	00	11	40
(Contd.)	223	00	04	70		57	00	04	30
	220	00	00	20		56 (Govt. Land)	00	00	60
	219	00	03	10		77 (Govt. Land)	00	06	20
	218	00	00	50		78	00	03	60
	183	00	00	40		82	00	00	20
	184/1272	00	04	00		80	00	02	10
	184	00	11	40		81	00	04	40
	185	00	00	20		46	00	07	40
	186	00	04	70		47	00	00	60
	187	00	02	10		25	00	03	20
	188 (Govt. Land)	00	00	20		26	00	02	80
	189 (Govt. Land)	00	00	40		21	00	00	50
	167	00	07	90		27	00	01	60
	400	00	00	80		15	00	00	30
	385	00	10	70		29	00	00	60
	382	00	06	60		30 (Govt. Land)	00	00	60
	381	00	06	00		14	00	00	30
	386	00	01	90		110	00	00	20
	495	00	00	50		111	00	01	80
	1008	00	17	80		112	00	02	00
	1010	00	00	50		142 (Govt. Land)	00	02	80
	1006	00	05	70	9. Jagpura	129 (Govt. Land)	00	05	90
	1001	00	00	70		156	00	02	20
	1005	00	08	50		587	00	02	30
	992	00	14	10		574	00	04	40
	984	00	05	80		575	00	03	80
	991	00	00	70		570	00	08	30
	990	00	06	20		569	00	02	50
	989	00	02	00		569/630	00	03	10
	986	00	07	60		557 (Govt. Land)	00	02	10
	987	00	05	40	10. Dholadanta	472/1206 (Govt. Land)	00	01	70
	978	00	01	30	(Derathoo)	477	00	01	10
	979	00	02	00		475	00	03	50
	977	00	06	10		476 (Govt. Land)	00	00	80
	976/1275	00	00	40		492	00	06	00
	1015 (Govt. Land)	00	07	70		491 (Govt. Land)	00	00	40
	1037/1319	00	00	20		490	00	02	30
	1021	00	02	30		488	00	10	00
	1022	00	00	30		489	00	01	50
	1020	00	02	40		486	00	04	40
	1019	00	02	60		485	00	04	70
	968	00	00	20		526 (Govt. Land)	00	01	30
	1029	00	00	20		889	00	00	60
	1028	00	00	50		871	00	01	10
	967	00	04	70		870	00	01	30
	963	00	07	00					

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
10.	Dholadanta	870/1165	00	00	20	11.	Derathoo	5832 (Govt. Land)	00	00	80
	(Derathoo)	869 (Govt. Land)	00	00	40		(Contd.)	5604	00	02	20
	(Contd.)	862	00	02	90			5603	00	03	80
		863	00	03	30			5584	00	03	10
		861	00	00	80			5583	00	08	10
		860 (Govt. Land)	00	00	40			5575	00	01	00
		859 (Govt. Land)	00	03	60			5590	00	00	40
		858	00	02	90			5592	00	10	80
		528/1157 (Govt. Land)	00	00	50			5571	00	09	40
		531 (Govt. Land)	00	08	10			5570	00	00	30
		532 (Govt. Land)	00	00	40			5565	00	03	40
		533 (Govt. Land)	00	04	80			5564	00	03	10
		535 (Govt. Land)	00	00	40			5557	00	00	80
		536	00	00	80			5553	00	01	90
		778 (Govt. Land)	00	24	80			5549	00	02	20
		791 (Govt. Land)	00	03	60			5549/7476	00	01	00
		790	00	03	10			5628 (Govt. Land)	00	02	40
		789	00	05	20			5629 (Gram Panchayat Land)	00	07	90
		787	00	03	60			5546 (Govt. Land)	00	01	30
		786	00	00	30			5502	00	02	40
		784	00	00	20			5469	00	00	90
		528 (Govt. Land)	00	00	20			5470	00	01	60
		785	00	04	00			5471	00	01	20
		767	00	06	20			5501	00	00	20
		763	00	04	30			5472	00	04	00
		757	00	09	50			5474	00	00	20
		758	00	01	90			5475	00	02	00
		755 (Govt. Land)	00	10	40			5476	00	02	30
11.	Derathoo	5898	00	00	80			5477	00	01	60
		5897	00	07	20			5478	00	00	20
		5896	00	06	90			5479	00	03	30
		5895	00	04	80			5480	00	02	00
		5919	00	02	60			5486	00	01	80
		5920	00	01	70			5483	00	00	50
		5921	00	05	00			5337	00	07	20
		5886	00	02	00			5356 (Govt. Land)	00	01	60
		5922	00	01	70			5357 (Govt. Land)	00	00	80
		5885	00	00	60			5056	00	01	70
		5923	00	04	70			5052	00	10	40
		5867 (Govt. Land)	00	02	40			5046	00	00	40
		5868 (Govt. Land)	00	00	80			5047	00	02	60
		5866	00	01	20			5044	00	03	00
		5865	00	02	20			5041	00	02	90
		5864 (Govt. Land)	00	02	80			5040	00	02	60
		5863 (Govt. Land)	00	00	90			5039	00	00	20
		5831 (Govt. Land)	00	01	00						

(1) (2)	(3)	(4)	(5)	(6)	(1) (2)	(3)	(4)	(5)	(6)
11. Derathoo	5038 (Govt. Land)	00	00	40	11. Derathoo	4749	00	00	80
(Contd.)	5036 (Govt. Land)	00	00	90	(Contd.)	4750	00	04	60
	4948/7041 (P.W.D.)	00	03	30		4745 (Govt. Land)	00	01	10
	4941	00	00	50		4194 (Govt. Land)	00	08	90
	4942	00	06	60		4302	00	00	20
	4943	00	01	50		4583 (Govt. Land)	00	07	50
	4944	00	02	00		4581 (Govt. Land)	00	02	20
	4947	00	03	80		4368	00	00	30
	4946	00	02	10		4369	00	03	10
	4911	00	05	00		4370	00	03	50
	4900	00	00	90		4580	00	02	10
	4902	00	00	20		4579	00	02	00
	4901	00	06	20		4578	00	05	00
	4903	00	06	90		4577	00	02	20
	4904	00	02	50		4575	00	02	00
	4895	00	01	00		4574	00	02	00
	4877 (Govt. Land)	00	02	60		4572	00	02	40
	4876 (Govt. Land)	00	01	00		4379	00	00	80
	4875 (Govt. Land)	00	00	80		4570 (Govt. Land)	00	03	00
	4855 (Govt. Land)	00	00	20		4569	00	03	20
	4868	00	00	40		4568 (Govt. Land)	00	00	60
	4862	00	14	90		4541	00	00	20
	4864	00	05	40		4538	00	05	00
	4863	00	03	80		4539	00	01	30
	4821	00	09	30		4540	00	08	20
	4823 (Govt. Land)	00	01	30		4544	00	07	00
	4806 (Govt. Land)	00	01	90		4545	00	04	50
	4792	00	11	80		4549	00	01	20
	4787	00	07	90		4552	00	00	20
	4788 (Govt. Land)	00	04	40		4550	00	06	50
	4786	00	06	20		4554 (Gram Panchayat	00	03	00
	4785	00	03	90		Land)			
	4780	00	05	90		4556 (Gram Panchayat	00	01	20
	4779/7037	00	01	40		Land)			
	4779	00	03	70		4557 (Gram Panchayat	00	08	10
	4778/7622	00	01	60		Land)			
	4781	00	01	60		4521 (Govt. Land)	00	02	50
	4777	00	00	20		4520 (Gram Panchayat	00	03	80
	4767	00	10	20		Land)			
	4768	00	01	50	12. Loharwara	145 (Govt. Land)	00	89	40
	4766	00	03	20	13. Sanod	4889/5492 (Govt. Land)	00	69	20
	4765	00	06	00		4996/6794 (Govt. Land)	00	01	20
	4764	00	05	00		4996 (Govt. Land)	00	20	50
	4760	00	03	00		4957 (Govt. Land)	00	05	00
	4752	00	03	00		4981/6432	00	11	50
	4751	00	00	20		4981 (Govt. Land)	00	04	40

(1) (2)	(3)	(4)	(5)	(6)	(1) (2)	(3)	(4)	(5)	(6)
13. Sanod	4982	00	05	20	13. Sanod	5327	00	15	60
(Contd.)	4983	00	04	40	(Contd.)	5328 (Govt. Land)	00	10	60
	4983/6444	00	00	40		5328/6792 (Govt. Land)	00	01	30
	4984/6443	00	02	70		5327/6661	00	16	40
	4984/6445 (Govt. Land)	00	00	20		5329 (Govt. Land)	00	01	80
	4984	00	08	90		5330	00	17	70
	4977	00	09	50		5349	00	01	30
	4976/6440	00	02	40		5348	00	08	60
	4976/6439 (Govt. Land)	00	02	80		5347	00	05	40
	4976	00	13	60		5345	00	00	20
	4974 (Govt. Land)	00	01	20		5346/6321	00	02	50
	4973 (Govt. Land)	00	01	60		5346	00	00	20
	4973/6627	00	02	30		5342	00	04	80
	5191/6626	00	11	50		5333	00	01	70
	5191	00	08	90		5334 (Govt. Land)	00	29	50
	5191/6623 (Govt. Land)	00	06	70	14. Ramsar	7706 (Govt. Land)	00	05	40
	5192/6784 (Irrigation Deptt.)	00	01	70		7705 (Govt. Land)	00	01	00
	5193 (Govt. Land)	00	00	70		7694 (Govt. Land)	00	09	90
	5195	00	06	80		7695 (Govt. Land)	00	07	10
	5224	00	07	70		7696 (Govt. Land)	00	01	90
	5226	00	14	80		7698 (Govt. Land)	00	15	40
	5228	00	07	60		7697 (Govt. Land)	00	00	20
	5228/6415	00	00	20		7603	00	01	10
	5271	00	07	60		7612 (Govt. Land)	00	01	50
	5272	00	02	10		7613 (Govt. Land)	00	10	90
	5273	00	06	70		7680/10337	00	01	20
	5274	00	01	60		7680 (Govt. Land)	00	13	80
	5276	00	02	00		7679	00	04	30
	5275	00	10	30		7679/10394 (Govt. Land)	00	01	30
	5287	00	04	40		7678/10341 (Govt. Land)	00	00	60
	5297	00	02	00		7678/10339	00	01	00
	5298	00	00	20		7678/10338	00	00	20
	5298/6351	00	00	40		7678 (Govt. Land)	00	38	00
	5300	00	00	20		7669/10351	00	02	80
	5300/6608	00	05	20		7672	00	00	90
	5302	00	00	50		7671/10354	00	09	50
	5305	00	08	30		7671 (Govt. Land)	00	04	30
	5304	00	00	20		7670 (Govt. Land)	00	01	00
	5305/6347 (Govt. Land)	00	02	80		7481/10372 (Govt. Land)	00	06	70
	5303 (Govt. Land)	00	00	40		7481	00	06	80
	5314	00	02	80		7481/10370	00	05	90
	5316	00	00	40		7468	00	08	00
	5315 (Govt. Land)	00	12	30		7468/10357	00	00	20
	5325/6796 (Govt. Land)	00	00	20		7450	00	01	20
	5326 (Govt. Land)	00	01	00					

(1) (2)	(3)	(4)	(5)	(6)	(1) (2)	(3)	(4)	(5)	(6)
14. Ramsar	7449	00	06	00	14. Ramsar	7331	00	02	10
(Contd.)	7449/10358(Govt. Land)	00	00	30	(Contd.)	7293	00	00	80
	7437	00	05	80		7294	00	03	70
	7438	00	00	40		7288	00	03	30
	7435	00	02	20		7287	00	00	40
	7434	00	03	20		7284	00	04	10
	7408	00	03	80		7285	00	01	20
	7409	00	02	50		7280	00	03	00
	7405	00	03	40		7243	00	02	30
	7403	00	01	30		7244	00	04	70
	7404 (Govt. Land)	00	00	20		7241	00	00	20
	7401 (Govt. Land)	00	02	10		7239	00	00	20
	7388 (Govt. Land)	00	00	70		9171 (Govt. Land)	00	03	00
	7374	00	00	20		9185 (Govt. Land)	00	00	50
	7376	00	05	00		9186 (Govt. Land)	00	00	80
	7377	00	04	50		7194 (Govt. Land)	00	02	40
	7377/10362	00	01	10		7192	00	05	90
	7374	00	01	70		7180 (Govt. Land)	00	00	50
	7381	00	03	20		7172 (Govt. Land)	00	01	70
	7371/10361 (Govt. Land)	00	04	70		7174 (Govt. Land)	00	01	10
	7372 (Govt. Land)	00	01	20		7173	00	04	90
	8190/10376 (Govt. Land)	00	04	20		7160 (Govt. Land)	00	01	70
	8190/10377 (Govt. Land)	00	07	50		7158	00	05	80
	7358	00	02	20		7157	00	00	20
	7357 (Govt. Land)	00	00	20		7156 (Govt. Land)	00	04	00
	9158 (Govt. Land)	00	16	10		7155	00	05	30
	9159 (Govt. Land)	00	00	60		7138 (Govt. Land)	00	00	40
	7355 (Govt. Land)	00	00	20		7133	00	12	30
	9160 (Govt. Land)	00	07	10		7065 (Govt. Land)	00	00	30
	7354 (Govt. Land)	00	02	40		7064	00	03	70
	7352	00	02	00		7063 (Govt. Land)	00	04	90
	7352/10618	00	02	90		7041 (Govt. Land)	00	06	60
	7352/10677	00	03	20		7029	00	00	80
	7348	00	03	30		7045 (Govt. Land)	00	09	60
	7346	00	05	50		7018 (Govt. Land)	00	01	70
	7345	00	02	60		7019	00	00	40
	9160/10617	00	07	20		7020	00	03	40
	7342 (Govt. Land)	00	01	20		7021	00	02	70
	4231 (Govt. Land)	00	01	60		7022	00	00	30
	4342	00	01	10		7009 (Govt. Land)	00	00	50
	7334 (Govt. Land)	00	02	50		7011	00	00	50
	7337	00	00	40		7010	00	06	00
	7335	00	00	80		7013	00	03	80
	7336	00	01	90		7007 (Govt. Land)	00	00	40
	7333	00	02	90					

(1)	(2)	(3)	(4)	(5)	(6)
14.	Ramsar	7006	00	00	20
	(Contd.)	7005 (Govt. Land)	00	01	80
		7004	00	08	40
		7002	00	00	40
		9268 (Govt. Land)	00	06	10
		9271 (Govt. Land)	00	15	30
		6997 (P.W.D.)	00	02	40
		6960 (Govt. Land)	00	02	40
		6898 (Govt. Land)	00	01	00
		6901 (Govt. Land)	00	00	90
		6900	00	01	60
		6899	00	02	20
		6896	00	07	40

[F. No. R-25011/12/2011-OR-I]

B. K. DUTTA, Under Secy.

नई दिल्ली, 6 मई, 2011

का.आ. 1301.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में दिनांक 20 जनवरी, 2001 को भारत के राजपत्र में प्रकाशित भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 93 दिनांक 18 जनवरी, 2001 में निम्नलिखित संशोधन करती है।

उक्त अधिनियम की अनुसूची के स्तम्भ 1 में सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), 33, मुक्तानंद नगर, गोपालपुरा बाईपास के समीप, जयपुर राजस्थान-382150 शब्दों के स्थान पर सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), निर्माण कार्यालय, प्लॉट नं. 38-39, एसडीसी विनय ब्लॉक, चौथा तल, मौजी कॉलोनी, मालवीय नगर, जयपुर राजस्थान-302017 शब्द रखे जायेंगे।

[फा. सं. आर-25011/8/2009-ओआर-1]

बी. के. दत्ता, अवर सचिव

New Delhi, the 6th May, 2011

S. O. 1301.—In compliance of the Office Order of the Government of India, Ministry of Petroleum & Natural Gas (Acquisition of Right of User in Land) Act, 1962 (50 of the 1962) Section 2 Clause 1, Government of India hereby amend the following amendments in the Notification of the Ministry of Petroleum & Natural Gas, Government of India S.O. 93 dated 18th January, 2001 published in the Gazette of India dated 20th January, 2001 as under.

In the above said Notification in column 1, Competent Authority, Indian Oil Corporation Limited (Pipelines Division) Construction Office, Plot No. 38-39, SDC Vinay, Block II, 4th floor Mauji Colony, Malviya Nagar, Jaipur Rajasthan-302 017 may be read in place of Competent Authority, Indian Oil Corporation Limited (Pipelines Division), 33, Muktanand Nagar, Near Gopalpura bye Pass, Jaipur Rajasthan-382150.

[F. No. R-25011/8/2009-OR-I]

B. K. DUTTA, Under Secy.

नई दिल्ली, 6 मई, 2011

का.आ. 1302.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय की नीचे दी गई अनुसूची में यथा उल्लिखित तारीखों की अधिसूचना संख्या का.आ. द्वारा उन अधिसूचनाओं में संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया था;

और, केन्द्रीय सरकार, ने उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में जो सभी विलगनों से मुक्त है, उपयोग का अधिकार इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित किया था;

और, सक्षम प्राधिकारी, ने केन्द्रीय सरकार को रिपोर्ट दी है कि पेट्रोलियम और खनिज के परिवहन के लिए राष्ट्रीय राजधानी क्षेत्र दिल्ली में मुण्डका गांव से टीकरी कलां, एल.पी.जी बाटलिंग प्लांट रा.रा. क्षेत्र दिल्ली तक पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा उक्त भूमि में पाइपलाइन बिछाई जा चुकी है अतः उस भूमि के बारे में, जिसका संक्षिप्त विवरण इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट किया गया है, प्रचालन की समाप्ति की जाए;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1963 के नियम 4 के स्पष्टीकरण-1 के अधीन अपेक्षानुसार उक्त अनुसूची के स्तंभ 6 में उल्लिखित तारीखों को प्रचालन की समाप्ति की तारीखों के रूप में घोषित करती है।

अनुसूची

क्र.आ. संख्या एवं तारीख	ग्राम	तहसील	जिला	राज्य	प्रचालन की समाप्ति की तारीख
677 दिनांक 25-3-2008 गजट ऑफ इंडिया दिनांक 29-3-2008	मुण्डका	पंजाबी बाग	पश्चिम दिल्ली	राष्ट्रीय राजधानी क्षेत्र दिल्ली	27-12-2010
-वही-	हिरण कूदना	-वही-	-वही-	-वही-	27-12-2010
-वही-	टीकरी कलां	-वही-	-वही-	-वही-	27-12-2010
-वही-	घेवरा	सरस्वती विहार	उत्तर पश्चिम दिल्ली	-वही-	27-12-2010

[फा. सं. आर-25011/7/2007-ओ.आर.-1]

बी. के. दत्ता, अवर सचिव

New Delhi, the 6th May, 2011

S. O. 1302.—Where as, by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. and date as mentioned in the Schedule attached issued under sub-section (1) of Section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) Act, 1962(50 of 1962) the Central Government acquired the right of users in the lands specified in the Schedule appended to those notification;

And, where, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government vested the right of users in the said land, free from all encumbrances in the Indian Oil Corporation Limited;

And, where as, the Competent Authority has made a report to the Central Government that the pipeline for the purpose of transportation of Petroleum products from Mundka village in the NCT of Delhi to Tikrikalan LPG Bottling plant in the NCT of Delhi by Indian Oil Corporation Limited has been laid in the said land, so the operation may be terminated in respect of the land the description of which in brief is specified in the Schedule annexed to this notification;

Now, therefore, as required under explanation 1 of rule 4 of the Petroleum Pipelines (Acquisition of Right of User in Land) Rules 1963, the Central Government hereby declares the dates mentioned in Column 6 of the said Schedule as the dates termination of operation.

SCHEDULE

S.O. No. & Date	Name of the Village	Tehsil	District	State	Date of termination of operation
677 dt. 25-3-2008, the Gazette of India dt. 29-3-2008	Mundka	Punjabi Bagh	West Delhi	NCT of Delhi	27-12-2010
-do-	Hiran Kudna	Punjabi Bagh	West Delhi	NCT of Delhi	27-12-2010
-do-	Tikri Kalan	Punjabi Bagh	West Delhi	NCT of Delhi	27-12-2010
-do-	Ghevra	Saraswati Vihar	North-West Delhi	NCT of Delhi	27-12-2010

[F. No. R-25011/7/2007-O.R.-I]

B. K. DUTTA, Under Secy.

नई दिल्ली, 6 मई, 2011

का.आ. 1303.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. और तारीख की नीचे दी गई अनुसूची में यथा उल्लिखित तारीख की अधिसूचना संख्या का.आ. द्वारा उन अधिसूचनाओं में संलग्न अनुसूची में विनिर्दिष्ट भूमि के अधिकार के अर्जन का अधिकार प्राप्त किया था;

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमियों में जो सभी विल्लंगमों से मुक्त है, उपयोग का अधिकार, इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित किया था;

और सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दी है कि राजस्थान राज्य के रुंध राह जिला भरतपुर से राजस्थान राज्य के जिला भरतपुर के जघीना गांव में स्थित भरतपुर मार्केटिंग टर्मिनल के ग्रामों की भूमियों में पाइपलाइन बिछाई जा चुकी है। अतः इन भूमियों में प्रचालन की समाप्ति की जाए जिसका संक्षिप्त विवरण इस अधिसूचना की संलग्न अनुसूची में विनिर्दिष्ट किया जाता है;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) नियम, 1963 के नियम 4 के स्पष्टीकरण-1 के अधीन अपेक्षानुसार उक्त अनुसूची के स्तंभ 7 में उल्लिखित तारीख की प्रचालन की समाप्ति की तारीखों के रूप में घोषित करती है।

अनुसूची

क्रम सं.	का.आ. सं. एवं तारीख	ग्राम का नाम	तहसील	जिला	राज्य	प्रचालन की समाप्ति की तारीख
1.	1656 दि. 9 जून, 2009 3034 दि. 27 अक्टूबर, 2009	राह	कुम्हेर	भरतपुर	राजस्थान	13-7-2010
2.	1656 दि. 9 जून, 2009	रुंध राह	भरतपुर	भरतपुर	राजस्थान	13-7-2010
3.	1656 दि. 9 जून, 2009	सहनावली	भरतपुर	भरतपुर	राजस्थान	13-7-2010
4.	1656 दि. 9 जून, 2009	घौरमई	भरतपुर	भरतपुर	राजस्थान	13-7-2010
5.	1656 दि. 9 जून, 2009	जघीना	भरतपुर	भरतपुर	राजस्थान	13-7-2010

[फा. सं. आर-25011/02/2008-ओ.आर.-1]

बी. के. दत्ता, अवर सचिव

New Delhi, the 6th May, 2011

S. O. 1303.—Whereas, by the notification of the Government of India in the Ministry of Petroleum of Natural Gas, S.O. Number and date as mentioned in the schedule below issued under sub-section (I) of Section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government acquired the right of user in the lands specified in the schedule appended to those notification;

And whereas, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government vested the right of user in said lands, free from all encumbrances, in the Indian Oil Corporation Limited;

And, whereas, the Competent Authority has made a report to the Central Government that the pipeline for the purpose of transport of petroleum products from Rundh Rarah village to Bhartpur marketing terminal to Jaghina village in tehsil Kumher and Bhartpur in the state of Rajasthan mentioned in the schedule has been laid in the said lands, so the operation may be terminated in respect of the ROW (Right of Way) in land, description of which in brief is specified in the schedule annexed to this notification;

Now, therefore, as required under explanation -1 of rule 4 the Petroleum Pipelines (Acquisition of Right of User in Land) rules, 1963, the Central Government hereby declares the dated mentioned in Column 7 of the said schedule as the dates of termination of operation.

SCHEDULE

Sl. No.	S. O. No. & date	Name of Village	Tehsil	District	State	Date of Termination of operation
1.	1656 Date 9-6-2009 3034 Date 27-10-2009	Rarah	Kumher	Bhartpur	Rajasthan	13-7-2010
2.	1656 Date 9-6-2009	Rundh Rarah	Bhartpur	Bhartpur	Rajasthan	13-7-2010
3.	1656 Date 9-6-2009	Sahnavali	Bhartpur	Bhartpur	Rajasthan	13-7-2010
4.	1656 Date 9-6-2009	Dhormai	Bhartpur	Bhartpur	Rajasthan	13-7-2010
5.	1656 Date 9-6-2009	Jaghina	Bhartpur	Bhartpur	Rajasthan	13-7-2010

[F. No. R-25011/02/2008-O.R.-1]

B. K. DUTTA, Under Secy.

नई दिल्ली, 10 मई, 2011

का. आ. 1304.— भारत सरकार ने, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1535 तारीख 08 जून, 2010 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में, मैसर्स रिलाएंस इन्डस्ट्रीज लिमिटेड के आन्ध्र प्रदेश में पूर्वी तट पर ऑनशोर टर्मिनल से देश के विभिन्न हिस्सों में उपभोक्ताओं तक प्राकृतिक गैस के परिवहन के लिए, मैसर्स रिलोजिस्टिक्स इन्फ्रास्ट्रक्चर लिमिटेड द्वारा काकीनाडा- बासुदेबपुर-हावडा गैस पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;

और, उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 30 दिसम्बर, 2010 को अथवा उससे पूर्व उपलब्ध करा दी गई थीं ;

और, पाइपलाइन बिछाने के सम्बन्ध में, जनता की ओर से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और अनुज्ञात कर दिया गया;

और, सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन भारत सरकार को अपनी रिपोर्ट दे दी है ;

और, भारत सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह संतुष्ट हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः, अब, भारत सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और, भारत सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से भारत सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त, मैसर्स रिलोजिस्टिक्स इन्फ्रास्ट्रक्चर लिमिटेड में निहित होगा।

अनुसूची

मंडल/ तेहसिल/ तालुक : ताल्लारेवु	जिला : पूर्वी गोदावरी	राज्य : आन्ध्र प्रदेश		
गाँव का नाम	सर्वे सं/सब डिविजन सं.	आर.ओ.यू. अर्जित करने के लिए क्षेत्रफल		
		हेक्टेयर	एयर	सि-एयर
1	2	3	4	5
1) मल्लवरम	631/2	00	61	78
	631/3	00	18	43
	631/4	00	68	47
	631/5	00	69	79
	631/6ए	00	37	04
	631/6बी	00	04	95
	631/7	00	12	77
	631/8	00	12	77
	631/9ए	00	04	94
	631/9बी	00	06	67
	631/10	00	06	72
	631/11ए	00	04	66
	631/11बी	00	05	22
	631/12	00	08	55
	631/13	00	03	90
	630	00	67	59
	629	00	76	83

1 .	2	3 .	4	5
1) मल्लवर्म (निरंतर)	628	00	51	11
	627/1	00	06	09
	627/2	00	06	67
	627/3	00	09	24
	627/4	00	11	86
	627/5	00	03	90
	627/6	00	00	42
	627/7	00	02	80
	627/8	00	05	35
	626	00	00	43
	620/10	01	37	31
	620/11	00	23	52
	620/7ए	00	13	11
	620/23	00	05	86
	620/24	00	06	95
	618/1	00	16	74
	618/2	00	08	27
	618/3	00	69	56
	617/1	00	48	40
	616/1	00	21	76
	604	00	77	21
	605	00	99	05
	606	00	12	68
	603	00	02	47
	664/2	00	17	56
	663	00	35	09
	662/3	00	27	86
	662/4	00	08	69
	661	00	36	36
	660/3	00	20	23
	659/2	00	35	65
	659/3	00	18	94
	658/1	00	14	36
	658/2	00	13	85
	658/4	00	19	00
	657	00	57	45
	656	00	58	68
	655	00	58	10
	654/1	00	04	44
	654/2	00	09	17
	602/3	00	00	12
	601	01	02	03
	600/1बी	02	65	91
	600/1ए	00	29	84
	600/5ए	00	84	10
	600/6ए	00	18	10
	600/6बी	00	10	71
	600/6सी	00	15	11
	118/1	04	12	80
	118/2	00	09	60
	123	00	12	91
	125/2	00	26	62
	126	00	44	60
	127	00	48	15
	53/1	00	05	87

1	2	3	4	5
1) मल्लवृम (मिरंतर)	53/2	00	40	12
	52	00	12	15
	12	00	34	82
	13/1	00	60	26
	13/2	00	10	19
	13/3	00	04	95
	14	00	06	57
	31	00	02	86
	15/2	00	11	90
	15/3	00	15	48
	15/4	00	31	67
	18	00	88	69
	21	00	12	40
	20/2	00	13	76
	20/4	00	15	27
	20/5	00	19	16
	20/6	00	08	16
	20/7	00	09	10
	4/10	00	03	48
	4/12	00	01	82
	3/3	00	00	67
	3/4	00	43	67
	3/5	00	31	59
	22	00	03	70
	2	00	08	52
	1/1	00	11	73
	1/2	00	00	43
2) पोलेकुरु	102/4	00	34	62
	214/2	00	43	08
	213/1	00	26	57
	213/2	00	00	20
	212	00	01	97
	211/3	00	14	00
	220	00	07	10
	219	00	02	54
	209/5	00	02	57
	208/3	00	01	66
	207/3	00	25	27
	205/4	00	32	38
	205/3	00	00	10
	204/2	00	02	57
	204/3	00	49	54
	202/4	00	36	64
	202/1	00	03	83
	202/2	00	00	40
	202/3	00	10	36
	200/3	00	02	73
	200/2	00	07	80
	200/1	00	61	65

1	2	3	4	5
2) पालेकुरु (निरंतर)	201/1	00	00	35
	111	00	03	55
	110	00	00	95
	112	00	65	95
	109	00	05	45
	121/4	00	00	35
	121/3	00	00	45
	121/2	00	00	55
	121/1	00	02	65
	113	00	04	55
	147/1	00	00	85
	148/5	00	23	45
	148/4	00	12	35
	148/3	00	02	25
	149/10	00	08	40
	149/3	00	10	40
	149/2	00	07	10
	149/1	00	04	35
	153	00	05	20
	158/2	00	12	50
	158/1	00	21	65
	159/1	00	19	30
	160	00	23	45
	161/1	00	38	10
	162	00	03	00
	376/2	00	55	30
	377/3	00	07	15
	377/2	00	35	95
	378/2	00	02	15
	378/1वी	00	22	40
	378/1ए	00	03	30
	77	00	95	60
	78	00	59	00

[फा सं. एल.-14014/32/2010-जी.पी.]

के. के. शर्मा, अवर सचिव

New Delhi, the 10th May, 2011

S. O. 1304.—Whereas by notification of Government of India in Ministry of Petroleum and Natural Gas number S.O. 1535 dated 08th June, 2010, issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), Government of India declared its intention to acquire the Right of User in the land, specified in the Schedule appended to that notification for the purpose of laying Kakinada-Basudebpur-Howrah gas pipeline for transportation of natural gas from onshore terminal at East coast of Andhra Pradesh of M/s Reliance Industries Limited by M/s Relogistics Infrastructure Limited to the consumers in various parts of the country;

And whereas, the copies of the said Gazette notification were made available to the public on or before 30th December, 2010;

And whereas, the objections received from the public to the laying of the pipeline have been considered and disallowed by the Competent Authority;

And whereas, the Competent Authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Government of India;

And whereas, Government of India, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the Right of User therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, Government of India hereby declares that the Right of User in the land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, Government of India hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in Government of India, vest on the date of publication of the declaration, in M/s Relogistics Infrastructure Limited, free from all encumbrances.

Schedule

Mandal/Tehsil/Taluk:Tallarevu		District:EAST GODAVARI		State:ANDHRA PRADESH	
Village	Survey No./Sub-Division No.	Area to be acquired for RoU			
		Hec	Are	C-Are	
1	2	3	4	5	
1) Mallavaram	631/2	00	61	78	
	631/3	00	18	43	
	631/4	00	68	47	
	631/5	00	69	79	
	631/6A	00	37	04	
	631/6B	00	04	95	
	631/7	00	12	77	
	631/8	00	12	77	
	631/9A	00	04	94	
	631/9B	00	06	67	
	631/10	00	06	72	
	631/11A	00	04	66	
	631/11B	00	05	22	
	631/12	00	08	55	
	631/13	00	03	90	
	630	00	67	59	
	629	00	76	83	
	628	00	51	11	
	627/1	00	06	09	
	627/2	00	06	67	
	627/3	00	09	24	
	627/4	00	11	86	
	627/5	00	03	90	
	627/6	00	00	42	
	627/7	00	02	80	
	627/8	00	05	35	
	626	00	00	43	
	620/10	01	37	31	
	620/11	00	23	52	
	620/7A	00	13	11	
	620/23	00	05	86	
	620/24	00	06	95	

1	2	3	4	5
1)_ Mallavaram (Contd)	618/1	00	16	74
	618/2	00	08	27
	618/3	00	69	56
	617/1	00	48	40
	616/1	00	21	76
	604	00	77	21
	605	00	99	05
	606	00	12	68
	603	00	02	47
	664/2	00	17	56
	663	00	35	09
	662/3	00	27	86
	662/4	00	08	69
	661	00	36	36
	660/3	00	20	23
	659/2	00	35	65
	659/3	00	18	94
	658/1	00	14	36
	658/2	00	13	85
	658/4	00	19	00
	657	00	57	45
	656	00	58	68
	655	00	58	10
	654/1	00	04	44
	654/2	00	09	17
	602/3	00	00	12
	601	01	02	03
	600/1B	02	65	91
	600/1A	00	29	84
	600/5A	00	84	10
	600/6A	00	18	10
	600/6B	00	10	71
	600/6C	00	15	11
	118/1	04	12	80
	118/2	00	09	60
	123	00	12	91
	125/2	00	26	62
	126	00	44	60
	127	00	48	15
	53/1	00	05	87
	53/2	00	40	12
	52	00	12	15
	12	00	34	82
	13/1	00	60	26
	13/2	00	10	19
	13/3	00	04	95
	14	00	06	57

1	2	3	4	5
1) Mallavaram (Contd)	31	00	02	86
	15/2	00	11	90
	15/3	00	15	48
	15/4	00	31	67
	18	00	88	69
	21	00	12	40
	20/2	00	13	76
	20/4	00	15	27
	20/5	00	19	16
	20/6	00	08	16
	20/7	00	09	10
	4/10	00	03	48
	4/12	00	01	82
	3/3	00	00	67
	3/4	00	43	67
	3/5	00	31	59
	22	00	03	70
	2	00	08	52
	1/1	00	11	73
	1/2	00	00	43
2) Polekurru	102/4	00	34	62
	214/2	00	43	08
	213/1	00	26	57
	213/2	00	00	20
	212	00	01	97
	211/3	00	14	00
	220	00	07	10
	219	00	02	54
	209/5	00	02	57
	208/3	00	01	66
	207/3	00	25	27
	205/4	00	32	38
	205/3	00	00	10
	204/2	00	02	57
	204/3	00	49	54
	202/4	00	36	64
	202/1	00	03	83
	202/2	00	00	40
	202/3	00	10	36
	200/3	00	02	73
	200/2	00	07	80
	200/1	00	61	65

1	2	3	4	5
2) Polekurra (Contd)	201/1	00	00	35
	111	00	03	55
	110	00	00	95
	112	00	65	95
	109	00	05	45
	121/4	00	00	35
	121/3	00	00	45
	121/2	00	00	55
	121/1	00	02	65
	113	00	04	55
	147/1	00	00	85
	148/5	00	23	45
	148/4	00	12	35
	148/3	00	02	25
	149/10	00	08	40
	149/3	00	10	40
	149/2	00	07	10
	149/1	00	04	35
	153	00	05	20
	158/2	00	12	50
	158/1	00	21	65
	159/1	00	19	30
	160	00	23	45
	161/1	00	38	10
	162	00	03	00
	376/2	00	55	30
	377/3	00	07	15
	377/2	00	35	95
	378/2	00	02	15
	378/1B	00	22	40
	378/1A	00	03	30
	77	00	95	60
	78	00	59	00

[F. No. L-14014/32/2010-G.P.]
K. K. SHARMA, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1305.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बी. बी. एम. बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 510/2k5) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-23012/46/1998-आई आर (सी-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 19th April, 2011

S.O. 1305.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 510/2k5) of the Central Government Industrial Tribunal-Cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workman, which was received by the Central Government on 19-4-2011.

[No. L-23012/46/1998-IR(C-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH****PRESENT :** Sri.A.K. Rastogi, Presiding Officer.**Case No. LD. 510/2K5**

Registered on 22-08-2005

Sh. Rattan Lal C/o Sh. R.K. Singh Parmar,
Secretary, Punjab (INTUC), 211-L,
Brari, P.O. Partap Nagar Nangal Dam,
District Ropar (Punjab).

...Applicant

Versus

The Chief Engineer, System Operation,
BBMB, Madhya Marg, Chandigarh.

...Respondent

APPEARANCES

For the workman : Sh. R.K. Singh Parmar, AR for
workman.

For the Management : Sh. Ramesh Sharda, Law Officer
for Management.

AWARD

Passed on 28th March, 2011

Central Government vide Notification No. L-23012/46/98/IR(CM-II) Dated 17-2-1999, by exercising its powers under Section 10 Sub-Section (I) Clause (d) and Sub-Section 2(A) of the Industrial Disputes Act, 1947 (hereinafter referred to as Act) has referred the following Industrial dispute for adjudication to this Tribunal :-

“Whether the action of the Chief Engineer, System Operation, Bhakra Management Board, Chandigarh in terminating the services of Sh. Rattan Lal S/o Sh. Puran Ram w.e.f. 4-5-93 and 31-5-95 and not engaging him when the vacancy of Fitter arose is just and legal? If not, to what relief the workman is entitled?”

Relevant for the purpose of present reference, the workman's case is that he was employed on daily wages as Fitter with effect from 1-1-1987 till 4-5-1993 when he was retrenched. As per para 10 of the claim statement, he was in the employment of the management subsequently from 16-1-1995 to 31-5-1995 also as Grinder man on daily wages. His retrenchment is bad as the three months' retrenchment notice dated 22-12-1992 had been served upon him on 8-1-1993 and it expired on 7-4-1993 but he was retrenched on a later date on 4-5-1993. On the date of his retrenchment the said notice had become infructuous and he should have been served with a fresh notice. He has also stated that retrenchment compensation was not worked out and paid as per provisions of Section 25F of the Act and it was not accompanied with notice also. It has also been stated that the management put notional breaks in his service so that he may not complete 240 days service in a year. During the period of notional breaks he was present for duty but work was not provided to him. The period of notional breaks is to be counted as working days for computing 240 days of service. The workman has alleged violation of Section 25H of the Act also. According to him regular vacancies of Fitter were existing at the time of termination of his services but they were filled from other categories. Management filled the posts of Fitters by promotion of Helpers while the posts should have been filled up from the retrenchees. He has claimed his reinstatement with full back wages.

The claim was contested by the management. In its reply the management has admitted that the workman was appointed as Daily wage Fitter w.e.f. 1-1-1987 and he was retrenched from the services w.e.f. 4-5-1997. With regard to para 10 of the claim statement wherein the workman has alleged the employment from 14-1-1995 to 31-5-1995 on daily wages as Grind Man nothing has been said by the management in its reply specifically. Only it has been stated that the workman worked intermittently on daily wage basis against the casual and

seasonal work in D.P.H. Division, Siappar during the period stated in the para, but he never completed 240 days in any 12 calendar months preceding to his disengagement. Regarding the disengagement of the workman in May, 1993, it has been stated that the workman was disengaged after getting No Demand (sic) Certificate regarding his retrenchment from Ministry of Labour, Government of India and he was paid retrenchment compensation and other terminal benefits as admissible under the Act. In the reply of the management there is a reference of a judgment of the Hon'ble High Court of Himachal Pradesh in CWP No. 2290 of 1995 titled "Sewak Ram & Others Versus BBMB" in which the workman also was a petitioner and regularization of the services of the petitioners had been prayed. In the said Writ Petition the Hon'ble High Court had directed the petitioners to make representation to the Chief Engineer concerned and in case the petitioners had completed 240 days continuous service in May 1993, the case for their regularization against the vacant posts, if available, will be considered in accordance with the policy instructions of the Board. The Chief Engineer/System Operation, BBMB, Chandigarh after carefully going through the record of the man days of the engagement of the workman found that he had not worked for 240 days continuously in any consecutive 12 calendar months preceding May 1993, the cut out date laid down by the Hon'ble Court, hence his claim for regularization against any post available on May 1993 is not tenable; and rejected his application. It was further stated that the Chief Engineer/System Operation, BBMB, Chandigarh in view of the orders of the Hon'ble High Court in the said petition has further observed that the reengagement of the workman depending upon the availability any seasonal/casual work in future in D.P.H. Division, Slappar will be regulated strictly as per seniority list of daily wage workers maintained in the Division. Therefore, the workman will be re-employed on daily wage basis as and when any vacancy of Fitter arises at D.P.S. Sallapar. But since the workman was retrenched as daily wagger, he has no right to claim any regular vacancy of Fitter. The management has denied the allegations that during the engagement of the workman, the management put notional breaks in his service. It was stated that in May 1993 (sic) he was disengaged after the completion of seasonal work. The management in its reply has denied the benefit of Section 25H of the Act to the workman on the ground of his not being in continuous service of one year in terms of the Act. With regard to the allegation of filling up the post of Fitter by promotion, it has been stated that no daily rated worker has been promoted to the rank of Fitter and the promotion in BBMB are made as per provisions of the relevant regulations. Section 25H of the Act does not give any legal right to the retrenched for appointment on the posts which are required to be filled up by promotion from the lower feeder of categories. It has been stated that the workman was rightly retrenched in accordance with the provisions of

Section 25B, 25F and 25N of the Act and the claim has no merits.

On the pleadings of the parties following issues arise for consideration:-

1. Whether the retrenchment notice dated 22-12-1992 had become infructuous on 4-5-1993 i.e. the date of retrenchment of workman and the termination of his service on 4-5-1993 is not just and legal?
2. Whether workman was in the employment of the management from 16-1-1995 to 31-5-1995 as daily wagger Grind Man and the termination of his services on 31-5-1995 is legal and justified?
3. Whether subsequent to the termination of the workman the vacancies of Fitter arose in the management and the latter was justified in not engaging the workman against those vacancies?
4. To what relief is the workman entitled?

In support of his case, the workman filed and tendered his affidavit and two papers marked 'A' and 'B', while on behalf of management the affidavit of Engineer R.P. Singh was filed and tendered along with certain Annexures.

I have heard the AR of workman and Law Officer of the Management and perused the material on record. My findings on various issues are as follows:-

Issue No.1.

In the first place it is to be noted that admittedly the establishment of the respondent is a factory. The retrenchment of workman therefore, is to be governed by Chapter V-B of the Act and not by Chapter V-A. The parties in their pleadings have referred Section 25F of the Act, but as it was laid down by the Hon'ble High Court of Andhra Pradesh in T. Gattaiah Versus Commissioner of Labour, Hyderabad & another 1981-II LJ 54 under Section 25F a workman is entitled to only one month's notice whereas under Section 25N he is entitled to three months' notice. This difference in the quantum of protection to which a workman is entitled would clearly show that the Parliament intended that where Section 25N applies, the application of Section 25F should be excluded.

It is further to be noted that the respondent has alleged the compliance of Section 25N of the Act. It did not avoid the compliance of said provisions on the ground that the workman did not complete the qualifying service of continuous one year on the date of retrenchment. Therefore, the question of completing 240 days of service or any break in his service whether genuine or notional loses its importance.

The case of the workman is that the termination notice dated 22-12-1992 served upon him on 8-1-1993 and the notice period expired on 7-4-1993 but his services were not terminated on that date and he was retrenched on a later date on 4-5-1993. The argument of the AR of the workman is that as notice period expired on 7-4-1993, the workman cannot be retrenched on 4-5-1993 on the basis of that notice. A fresh notice should have been issued. The workman in his claim statement has stated that no order of extension of notice period was conveyed to him. The same statement he has made in his affidavit also. But the management witness R.P. Singh in his affidavit has stated that the notice period was further extended up to 4-5-1993 A.N. vide RE/DPH Division No. 9-30/REG-287 dated 2-4-1993. The document has been filed by the management as Annexure-III of the affidavit of the witness. The management has also filed the acknowledgement of this notice, which is paper no. 60 along with Annexure-IV. It bears the signature of the workman and it shows that the workman received the said notice on 7-4-1993. In the circumstances the statement of the workman that extension of notice period was not conveyed to him cannot be accepted. It also cannot be accepted that the notice dated 22-12-1992 had become infructuous on 4-5-1993.

The management has filed a copy of the original notice dated 22-12-1993 of permission dated 15-4-1993 of the Government of India, Ministry of Labour for the retrenchment of the workman. The management had alleged in it is written statement and also in the affidavit of the management witness that the workman had been paid 2970 as retrenchment compensation. According to the workman, the compensation was not worked out correctly, but it has not been made clear as to what compensation was payable to the workman according to law.

The workman has also taken an objection that the retrenchment compensation was not accompanied with the retrenchment notice. But it is not the requirement of law. Under Section 25N, sub Section (9) the compensation is payable at the time of retrenchment.

From the above going discussions, it is thus clear that the workman was retrenched after notice and after obtaining the permission of the Central Government, Labour Ministry and retrenchment compensation was paid to him. It is, therefore, held that the termination of the services of the workman w.e.f. 4-5-1993 is just and legal. Issue No.1 is decided against the workman.

Issue No. 2

Another question referred for adjudication is whether the termination of the services of the workman on 31-5-1995 is just and legal?

In para 10 of the claim statement the workman has alleged to have worked from 16-1-95 to 31-5-95 also as

daily wagers on a different post of grinder man, after his earlier retrenchment on 4-5-1993. Management witness R.P. Singh in para 12 of his affidavit has stated that the workman was re-engaged as Grinder man on daily wage basis on casual/seasonal work intermittently between January 1995 to May 1995 and his services were terminated after completion of seasonal work by serving him 10 days notice as required under CE/SO vide RE/TPH Division Letter No. 5436-39 dated 16-5-95 Annexure-12. During this period the workman worked for 135 days only and did not complete the qualifying service of 240 days in 12 calendar months preceding to his date of retrenchment i.e. 31-5-95 and no retrenchment compensation was payable to him Under Section 25F of the Act.

As it has been stated above, the establishment in question is a factory and the retrenchment of the workman is to be governed by the provisions of Section 25N of the Act and not by Section 25F of the Act. For the application of Section 25N of the Act, continuous service of not less than one year is necessary. The definition clause embodied in Section 25B of the Act providing that a workman shall be deemed to be in continuous service for a period of one year if he, during a period of 12 calendar months preceding the date of retrenchment, has actually worked for not less than 240 days, is not applicable in case of a workman retrenched under Chapter V-B of the Act. Section 25B of the Act falls in Chapter V-A and the opening sentence of Section 25B is "For the purpose of this Chapter....." Therefore the protection of Section 25N of the Act is available to a workman when he has been in actual continuous service for one year at least. Since the workman worked only for five months in the second stint, therefore, he is not entitled to the protection of Section 25N of the Act regarding his service period from January 1995 to May 1995 and his services may be terminated without following the procedure provided under Section 25N of the Act. Hence, there is no infirmity in the termination of the services of the workman on 31-5-1995 and his termination is legal and justified. Issue No.2 is decided against the workman.

Issue No. 3

The next question is whether subsequent to the termination of the workman the vacancy of the fitter arose in the management and the later was justified in not engaging the workman against those vacancies.

According to the workman regular vacancies of Fitter existed at the time of termination of his services but they were filled up from other categories and management filled the posts of Fitters by promotion of helpers, while the post should have been filled up from the retrenched and the management has violated the provisions of Section 25H of the Act.

Regarding this, the argument of the management is that the workman had been retrenched as a daily wager

hence, he has no right to claim any vacancy of Fitter and no daily rated worker has been promoted to the rank of Fitter. Promotion in BBMB are made as per provisions of the relevant regulations and Section 25H of the Act does not give any legal right to the retrenchees for appointment on the posts, which are required to be filled up from promotion from the lower feeder of categories.

Management also argued that since the workman in his second stint had not completed one year service, hence he was not entitled to the benefit of Section 25H of the Act.

I do not subscribe to this argument. Benefit of Section 25H is available to all the retrenchees irrespective of their length of service.

Moreover the right of reemployment in present case emanates from the retrenchment made as per provisions of Section 25N of the Act.

In this regard it may be noted that Government of India while according permission for the retrenchment of the workman had specifically noted in his letter dated 15-4-1993 Annexure-V that the workman will be engaged by the management as and when vacancy of Fitter arise. There was no exception to this condition. Therefore, the workman was entitled to re-employment on arising of vacancy of Fitter irrespective of the regulations of the management providing the filling up of vacancy by promotion from lower cadre.

The AR of the workman in this regard has also placed reliance in a judgment of the Hon'ble High Court of Judicature Punjab in Muller & Phipps (India) (Private) Ltd. Versus their employees' Union & Others 1967 II LLJ 222 in which the Hon'ble High Court held that the whole purpose of Section 25H would be foiled if the management is given discretion to make promotion from lower cadres to vacancies which should under Section 25H of the Act be filled by the retrenched employees.

It is therefore clear that management was not justified in not engaging the workman against the vacancies of Fitter and in filling those vacancies by promotion from lower cadre. Issue No.3 therefore, is decided in favour of the workman and against the management.

Issue No. 4

From the above going discussion it is clear that the action of the management in terminating the services of the workman firstly on 4-5-1993 and later in the second stint of employment on 31-5-1995 is legal and justified but the management's action in not engaging the workman against subsequently occurred vacancies of Fitter and in filling up the vacancies by promotion from lower cadre is not justified. Workman is entitled to re-employment and that too from the date when the first post of Fitter was filled up after his retrenchment. The

management is directed to re-employ the workman Rattan Lal on the post of Fitter within a month from receiving the copy of award. Workman will be deemed to have been employed on the date on which the first vacancy of Fitter was filled up, after his retrenchment. He will be entitled to back wages also from the date of his deemed re-employment. Reference is accordingly answered in favour of workman partly. Let two copies of award be sent to the Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1306.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्द्रल एम. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 12/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-22012/267/2007-आई आर (सीएम-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S.O. 1306.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12/2009) of the Central Government Industrial Tribunal-Cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of Talcher Area of MCL, and their workman, received by the Central Government on 19-4-2011.

[No. L-22012/267/2007-IR(CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT: Shri J. Srivastava,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 12/2009

Date of Passing Award - 31st March, 2011

Between :

The Management of the Chief General Manager,
Talcher Area of MCL,
Dera Colliery, Dist. Angul.

... 1st Party-Management.

AND

Their workmen represented through the
General Secretary, Orissa Coal Mines
Labour Federation, Dera Colliery,
Dist. Angul.

... 2nd Party-Union.

APPEARANCES :

None : For the 1st Party-Management.

Shri Sankar Prasad : For the 2nd Party-Union.
Behera, Secretary.

AWARD

This reference has been sent to this Tribunal by the Government of India in the Ministry of Labour vide their letter No. L-22012/267/2007-IR(CM-II), dated 16-2-2009 for adjudication of an industrial dispute existing between the employers in relation to the Management of Talcher area of MCL and their workman.

2. The matter under dispute has been mentioned under the schedule of the letter of reference which reads as follows :

“Whether the demand of Orissa Coal Mines Labour Federation for extending the benefit of 16 days holiday as per tripartite settlement dated 3-10-1991 to all ministerial staff working under Talcher Area of M/s. MCL is legal and justified? To what relief are the workmen concerned entitled?”

3. The 2nd Party-Union has filed statement of claim submitting their case with regard to the dispute and stated that Orissa Coal Mines Labour Federation, an affiliate of H.M.S. had raised a dispute for allowing 16/18 days holiday to the clerical staff of all collieries and areas who are working 6 and 1/2 hours daily from Monday to Friday and half day on Saturdays under Mahanadi Coal Fields Limited. A tripartite settlement was arrived at on 3-10-1991 before the Regional Labour Commissioner (Central), Bhubaneswar which was signed by Birabar Pati, the then General Secretary of Coal Mines Labour Federation and General Secretary of the Jagannath Colliery Labour Union along with the General Secretaries of three unions operating in three other collieries of Kalinga OCP, Bharatpur OCP and Ananta OCP. These three General Secretaries are also Secretaries of Orissa Coal Mines Labour Federation. In pursuance of this settlement an office order was issued by the Personnel Manager, Jagannath Area bearing No. 31815, dated 11-10-1991 allowing 16 days holidays to the clerical staff of aforementioned collieries and 18 days to the clerical staff of the Area unit. Unfortunately same categories of workers of Talcher area consisting of Talcher Colliery, Deulbera Colliery, Nandira Colliery and Area unit of Talcher Area and also Handidhwa Colliery, since closed

have not been covered under the same benefits on the ground that these unions have not signed the agreement though this benefit was availed by them prior to this agreement. The plea of the 1st Party-Management is untenable in so far as it has discriminated a group of workers when it is the settled principle that there should be parity in the matter of fringe benefits in all the collieries. The 2nd Party- Union has failed to get any positive result from the 1st Party-Management on this issue. Therefore the dispute was raised before the Regional Labour Commissioner (Central), Bhubaneswar and consequently this reference was made. Now it has been prayed that benefit of 16/18 days holidays be given to the clerical staff of Talcher area at par with their counter parts.

4. The 1st Party-Management inspite of sufficient service of notice and after appearing in the case at the last hearing has not been filed any written statement. The case was proceeded exparte against the 1st Party-Management vide order dated 7-7-2010.

5. The 2nd Party-Union has filed two sworn affidavits of Shri Ananta Charan Patra, General Secretary of the Orissa Coal Mines Labour Federation (H.M.S.) and proved the case of the 2nd Party-Union exparte.

6. The authorized representative of the 1st Party-Management appearing on the date of exparte argument has neither filed any reply nor made any prayer to set aside the exparte order and give an opportunity to put the case of the 1st Party-Management meaning thereby that the 1st Party-Management has nothing to say against the claim of the 2nd Party-Union.

7. The 2nd Party-Union by its exparte evidence has been successful in proving that a tripartite agreement was made on 3-10-1991 between the parties before the Regional Labour Commissioner (Central), Bhubaneswar extending the benefit of 16/18 days holiday to clerical staff of all Collieries and Areas working under MCL. But this benefit has been denied by the 1st Party-Management to the ministerial staff working in Talcher area of M/s. MCL consisting of Talcher Colliery, Deulbera Colliery, Nandira Colliery and Area Unit of Talcher Areas and also Handidhwa Colliery since closed which is discriminatory, unjustified and illegal. This also denies parity. Therefore the demand of the Orissa Coal Mines Labour Federation for extending the benefit of 16 days holiday as per tripartite settlement dated 3-10-1991 to all ministerial staff working under Talcher area of M/s. MCL is held legal and justified.

8. The reference is answered accordingly.

Dictated and Corrected by me.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1307.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोलकाता टेलीफोन्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोलकाता के पंचाट (संदर्भ संख्या 31/91) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-40012/41/91-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 19th April, 2011

S.O. 1307.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 31/91) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Calcutta Telephones and their workmen, which was received by the Central Government on 19-4-2011.

[No. L-40012/41/91-IR(DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA**

Reference No. 31 of 1991

Parties : Employers in relation to the management of
Calcutta Telephones**AND**

Their workmen

PRESENT:

Mr. JUSTICE MANIK MOHAN SARKAR, Presiding Officer

APPEARANCES :On behalf of the : Mr. T. Chowdhury, Ld. Advocate.
ManagementOn behalf of the : Mr. S. Banerjee, Ld. Advocate with
Workmen Mr. A. Das, Ld. Advocate.

State: West Bengal. Industry: Telephone.

Dated: 8th April, 2011.

AWARD

By Order No.L-40012/41/91-IR(DU) dated 28-10-1991 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of the Calcutta Telephones, Deptt. of Telecommunication, Tahar Mansion, 8, Bentinck Street, Calcutta-1 in terminating Sri Puskar Chandra Kolay w.e.f. 2-7-89 is legal, proper and justified? If not, what relief the workman is entitled to?”

2. In his written statement of claim the workman Puskar Chandra Kolay submitted that he was appointed as an employee under Sub-divisional Officer (Phones), 67 Telephone Exchange at 4, Dr. Prabodh Banerjee Road, Howrah-711101 on 28-2-1978 and he worked there up to 8-12-1979 or for about 1 year 4 months continuously without any break. For his such work one certificate was issued to by the official under whom he worked on 8-12-1979. Suddenly on and from 9-12-1979 the service of the workman was terminated on verbal order without assigning any reason and also without payment of any compensation along with many other workmen almost at the same time. Though some of these terminated workers were subsequently engaged, the present workman in spite of several request was not engaged till July, 1987 and he was engaged again in July, 1987 as a casual workman and again his service was terminated with effect from 1-7-1989 in terms of a notice dated 31-5-1989. At that time his daily wage was Rs. 31.75. The workman claimed that he has put in 518 days of service till during the period 28-2-1978 to 8-12-1979 and further for 727 days during the period from July, 1987 to June, 1989. In that process the workman concerned has worked for more than 240 days in 12 calendar months preceding 30-6-1989. The workman claimed that his termination is mala fide, arbitrary and colourable exercise of power. Prior to issuance of verbal order of termination of service of this workman it was incumbent upon the employer to comply with the mandatory provisions of Sections 25F and 25G of the Industrial Disputes Act, 1947 which was not done. The workman claimed that his termination was a case of retrenchment as defined in Section 2(oo) of the Act and since he worked for 240 days or for one year before the date of his termination, he is entitled to the statutory compensation. This workman alleged that display of discrimination was done to him by the employer as many persons junior to him were still working under the employer even after termination of his service.

2. Management filed a written statement contending that the workman concerned was never engaged for the period from 28-2-1978 to 8-12-1979 and so the question of his termination is an absurd proposition and it does not carry any sense at all. The management admitted that the workman worked as a casual majdoor and his engagement was terminated by a statutory notice issued by the S.D.O.P, 60 Exchange on 31-5-1989 with effect from 1-7-1989 and thereby the legal formalities were observed by the employer management. It is further stated that at that time the last drawn payment of majdoor was Rs. 32.25 per day and not

1.75 as stated by the workman concerned. The management denied engagement of the workman before July, 1987 nor he was engaged uninterruptedly preceding to June, 1989. He was disengaged for non-availability of work at the relevant point of time and it was never malafide, arbitrary nor in exercise of colour of power. The management claimed that the workman never rendered continuous service in the event of his presence for 29 days in March, 1988 and 28 days in September of the same year and so the question of compliance of the provision of Section 25F of the Industrial Disputes Act, 1947 never arose and the management further denied that any casual majdoor Junior to the workman was re-employed after termination of his engagement alongwith the workman concerned. The management concluded by stating that the workman on each occasion of his engagement was never sponsored by the local Employment Exchange and was an irregularly engaged person and the workman concerned cannot be considered for reinstatement as he was a casual majdoor without bearing any post.

3. The rejoinder of the workman concerned is found to be denial of the statement made by the management employer in their written statement and also a repetition of the stories and facts made out in his statement of claim and so I do not feel it necessary to repeat the same again.

4. This matter involves a peculiar nature of claim and anticlaim since the workman concerned claimed to have worked under the management for two periods— (i) from 28-2-1978 to 8-12-1979 and (ii) from July, 1987 to June, 1989 and on both the occasions the workman concerned has claimed that he worked for 518 days and 720 days respectively and thus has claimed that he worked for more than 240 days and he was entitled to get mandatory benefit as provided under Section 25F of the Industrial Disputes Act, 1947 by way of notice of termination, pay and compensation and though a notice of termination was received by him, it was not followed by rest of the two compliances. Thus it was claimed that the termination was bad, rather, illegal and so the termination was not at all a termination and claimed his reinstatement.

5. In this context, the workman concerned has relied upon a single evidence in his favour by way of Ext. W-1 which is a certificate issued by one Kali Shankar Bandopadhyay who happened to be Sub-divisional Officer (Phones) of 67 Telephone Exchange at 4, Dr. Probodh Banerjee Road, Howrah-711001 at the time of granting such certificate. In the said Ext. W-1 it is found that the present workman was stated to have worked as a casual labour from 28-02-1978 to 30-06-1979 to the said unit and also certified that the workman concerned also worked from time to time even after 30-06-1979 and continued upto 08-12-1979.

6. The granter of the certificate was firstly summoned by the workman as WW-2. In course of his examination,

the said Mr. Bandopadhyay has stated that the certificate concerned was issued by him in his own hand writing and it had his signature thereunder when he was S.D.O.P, 67 Exchange and also avowed that as the certificate was issued by him, it was true to his knowledge. But, Mr. Bandopadhyay concluded his statement in his examination in chief (though the deposition does not show that it was in the nature of examination in chief) has stated that the workman concerned did not work continuously but worked from time to time when required. Subsequently, the same witness was also summoned by the management and was examined as MW-1 after long gap of about 5 years and at that time Mr. Bandopadhyay stated as MW-1 that during 1977 to May, 1979 he was posted as J.E. External, 67 Exchange and thereafter he was posted as S.D.O.P. of the same Exchange and continued upto December, 1979. In that occasion the witness concerned has stated that he issued a certificate in favour of the present workman who happened to be a casual labour though he stated that the date mentioned under his signature in Ext. W-1 was not correct and it was anti-dated and though the certificate bears his signature, he could not remember the date of granting the certificate, but stated that it was issued sometimes in 1984 as the workman concerned approached him with a request to grant such certificate. He has further stated that he had verified the contents of the certificate from the attendance register, a register maintained by the then J.T.O., Shri N.C. Karmakar. Now a question arises in the mind of the Tribunal that when a casual labour working under an officer of the management, how another officer of the management can grant a certificate as Ext. W-1 as Shri N.C. Karmakar the then J.T.O. was the right person to grant such certificate as he used to maintain attendance register and other paper relation to the workman. Secondly, the said attendance register is not forthcoming in the present reference from either of the parties though the management has filed temporary advance account sheets and the muster roll of different workmen who worked under different officers including Mr. N.C. Karmakar. On verifying the muster roll maintained by Mr. N.C. Karmakar, among the names of the workers listed there, the name of the present workman being Puskar Chandra Kolay does not appear. There was no effort from the side of the workman to call for any attendance register or muster roll in the name of the present workman to show whether he actually worked during the period as claimed by him in 1978 to 1979 since the management side has categorically denied that he was so employed during that period even though in service in the nature of Ext. W-1 as produced by the workman concerned. The said document will not be sufficient to hold that the workman concerned actually worked during that period since the granting officer of Ext. W-1 was not the proper officer of the management who engaged the workman or under whom he was working or under whose management the workman concerned was paid with his daily wages

periodically. The denial of the management as stated above has become very much important since admittedly there was no letter of engagement of the workman in any date during that period nor there is letter of termination of the workman concerned.

7. Even if it is taken for argument sake that Ext. W-1 is a document to show that the workman concerned worked during the years 1978-1979, it is not mentioned about the number of days he worked under the management since the granter of the said certificate has stated that the workman concerned was engaged from time to time and when required. So, if the version of the said granter of the certificate is taken for consideration, the alleged engagement of the workman was scanty in nature and it was not continuous during that period. If the workman concerned was stated to have worked all through the months from February 1978 to December, 1979, then monthly calculation could have assisted the workman concerned that he worked for 240 days. But, such is not the circumstance in the present reference since Ext. W-1 followed by deposition of Mr. Kali Shankar Bandopadhyay both as WW-2 and MW-1, no picture is forthcoming about the number of days he worked during the period though there is sharp denial from the side of the management that he ever worked for the management as casual labour during that period and further no other evidence in the nature of attendance register/sheet or muster roll for payment or account sheet is forthcoming bearing the name of the present workman. The certificate Ext. W-1 cannot stand in its own since the same might have been issued by the concerned officer in consultation with the office papers maintained by the management in the name of the present workman. But, no such paper is forthcoming to show, on which the granter of Ext. W-1 relied upon for preparation of the certificate concerned. The workman also has not taken any step for an order calling the management to produce such relevant paper involving his engagement.

8. Now we can take up the second stage of claim that the workman has done in respect of his fresh engagement from July, 1987 till June, 1989. For any such engagement during those years, the management has stated that he was actually engaged for only two months during that period and that is in the month of March, 1988 for 29 days and September, 1988 for 28 days and has never admitted that he was engaged from July, 1987 onwards till June, 1989. In this context, one letter of termination has been relied upon by both the parties (Ext. W-2) which is stated to be a notice in advance of one month from the date of termination issued on 31-5-1989 with the information that the engagement of the workman was terminated with effect from 1-7-1989 and that the name of the said workman would be struck off from the muster roll. Though a written notice of termination was issued in that occasion, practically none of the parties has taken

any effort to produce the letter of engagement of the workman concerned. Muster roll and the temporary account sheets produced by the management as series of exhibits from Ext. M-5 to M-37, thus show that these are concerned for the years 1978 and 1979 in which the name of the present workman does not appear but none of the papers are of the year 1987 or 1988 or 1989.

9. Though a plea has been taken by the Learned Advocate for the workman that non-production of such document will work as withholding document the same will go against the management and the claim of the workman should be presumed as proved that the present workman worked for 240 days during the years 1987 to 1989 as an adverse effect upon the management for such withholding. In this context Learned Advocate for the management submitted that the Evidence Act should not be treated so strictly in a reference under the Industrial Disputes Act. It has further been stated by the Learned Advocate for the management that the liability of proving that a worker has worked for more than 240 days is upon the workman himself who claimed such and it is not the task of the management to bring evidence to show that he did not work during that period. This has been stated by the Learned Advocate for the management both in respect of the claim of the workman concerned during the period from 1978 to 1979 and also for a long period from 1987 to 1989 since the position of law to that effect in a catena of decision is that the onus of proof for work for 240 days or more to claim benefit under Section 25F is upon the workman himself who claims it.

10. It is fact that though provision of Evidence Act need not be strictly followed in industrial dispute. even then the principle of evidence that the burden of proving a claim lies upon the person who claims. cannot be ruled out in the present context since it is the general principle of law. The responsibility never lies upon the person against whom such claim is made to prove the claim is untrue. Such role of the opposing party in a reference will be called upon only when the person claiming the existence of some fact proves the same. This Tribunal would have been happy if the workman concerned could be given with a relief as he claimed, provided he actually worked for the said period.

11. Though a question peeps in the mind of the Tribunal that when the workman concerned worked only for 57 days only in total in March, 1988 and September, 1988 what compelled the management to issue a letter of termination as being a statutory one since the termination would not hit the mandatory provision of Section 25F of the Industrial Disputes Act. In this context, the Ld. Advocate for the workman submitted that when the workman concerned worked only for 57 days only in total in March, 1988 and September, 1988 what compelled the management to issue a letter of termination as being a

statutory one since the termination would not hit the mandatory provision of Section 25F of the Act. In this context the Ld. Advocate for the management submitted that it was done by way of precaution from the side of the management in view of the provision thereto under the Standing Order of the management concerned. However, the view of the Tribunal should not be driven from a matter with such suspicion since a claim of statutory obligation is to be proved through proper evidence from the side of the claimant since disobedience to the same calls upon the management to some pecuniary burden by way of payment of compensation for violation of the mandatory provision of Section 25F of the Act as per present position of law to that effect, in lieu of reinstatement with back wages.

12. In view of all the discussions made above, I am of the view that since no material is forthcoming to show that the workman concerned has worked for 240 days or more, this Tribunal cannot ask the management to comply with the mandatory provision of Section 25F of the Industrial Disputes Act, 1947 and thus the claim of the workman does not stand for want of proof.

13. So, the termination of Shri Puskar Chandra Kolay with effect from 2-7-1989 cannot be held to be illegal, improper or unjustified and consequently no relief can be given to the workman concerned.

An Award to this effect is passed.

Dated Kolkata,

The 8th April, 2011.

JUSTICE MANIK MOHAN SARKAR, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1308.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गन कैरिज फैक्ट्री के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निरिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/132/94) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-4-2011 प्राप्त हुआ था।

[सं. एल-14012/26/93-आई आर (डी.यू.)]

जोहन तोपनो, अवर सचिव

New Delhi, the 19th April, 2011

S.O. 1308.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/132/94) of the Central Government Industrial Tribunal-Cum-Labour Court Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of Gun Carriage Factory and their workman, which was received by the Central Government on 19-4-2011.

[No. L-14012/26/93-IR(DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/132/94

Presiding Officer : SHRI MOHD, SHAKIR HASSAN

Shri R. C. Jha, Secretary,
Satghani Bahan Nirmani Shramik
Sangh for its workman Shri M.L. Rajak,
T. No. 1170/NIE, Store Keeper,
Gun Carriage Factory,
Jabalpur. ... Workman

Versus

General Manager,
Gun Carriage Factory,
Jabalpur ... Management

AWARD

Passed on this 11th day of April 2011

1. The Government of India, Ministry of Labour vide its Notification No. L-14012/26/93-IR(DU) dated 11-8-94 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Gun Carriage Factory, Jabalpur (MP) in deducting the salary of Shri M.L. Rajak, Store Keeper, BMP Shop, GCF, Jabalpur (T. No. 1170/NIE) vide their order dated 21-9-91 is justified? if not, what relief he is entitled to?”

2. The case of the Union/workman in short is that the workman was working as Storekeeper in Tool II Godown, Main Store Section of Gun Carriage Factory, Jabalpur during the period of April 1986. He was placed under suspension of 11-3-1987 and was served with chargesheet alleging therein for abetment of theft and for going outside the factory on duty pass for private work. The charge of abetment of theft was found not proved in the departmental proceeding but he was found guilty in another charge and was accordingly punished. The Enquiry Officer did not rely the evidence of the management witness who were said to be relevant and had taken some extraneous grounds to prove the 2nd charge. It is stated that the findings of the Enquiry Officer was perverse. It is submitted that the order of punishment be set aside and the workman is entitled of full wages from the period of suspension.

3. The management appeared and filed his statement of claim to contest the reference. The case of the management, inter alia, is that the workman is not member of the Union and therefore the Union has no locus standi to raise the dispute. The workman while working as a store keeper committed misconduct. He was served with chargesheet of two charges. The departmental Enquiry was constituted against him. The Enquiry Officer after enquiry submitted his enquiry report. The charge of abetment of charge was found not proved but the second charge with respect of going outside on duty pass for private work was found proved. The General Manager imposed the punishment of reduction of pay by one stage from 1150 to 1130 in the time scale for a period of one year with cumulative effect. The workman was given full opportunity to defend himself and all the relevant documents were supplied to him. The Disciplinary Authority after applying his mind imposed the punishment which is just and proper. It is submitted that the reference be answered in favour of the management.

4. On the basis of the pleadings, the following issues are framed for adjudication.

- I. whether the departmental enquiry conducted by the Enquiry Officer against Shri M.L. Rajak, Store keeper, GCF is just and proper?
- II. Whether the findings of the Enquiry Officer is perverse?
- III. Whether the punishment awarded to the workman is just and proper?
- IV. To what relief the workman is entitled?

5. Issue No. I

This issue is taken up as preliminary issue. After hearing both the parties and after perusing the departmental enquiry papers, the then Tribunal on 11-7-2003 held that the departmental enquiry conducted by the authority against the workman is just and proper. Thereafter the parties were given opportunity to adduce evidence on the point of gravity or extent of sentence. Thus this issue is already earlier answered.

6. Issue No. II & III

No fresh evidence is adduced by either of the parties. Both the parties have relied on the same evidence which was adduced in the departmental enquiry. The scope of the Tribunal appears to be very limited in view of the decision reported in (2008) 5 S.C.C. 554 *Usha Breco Mazdoor Sangh Vrs. Management of Usha Breco Ltd.* and another specially when no fresh evidence is adduced before the Tribunal. The only point appears to be seen that whether the findings of the Enquiry Officer is altogether perverse when the domestic enquiry was held according to principles of natural justice and was declared just and proper.

7. The Enquiry Report Paper No. 8/7A Page 55 shows that the Enquiry Officer had relied the statements of the witnesses who had supported that the workman went on duty pass for private work. Paper No. (8/85) Page 69 further shows that the Enquiry Officer had also concluded on perusal of the gate passes that the workman went outside on the basis of duty gate pass for private purposes. This shows that the findings of the Enquiry Officer is not perverse and is based on evidence. Since the punishment is only reduction of one stage for one year. I do not find any reason to interfere in the order of punishment. These issues are decided in favour of the management and against the workman.

8. Issue No. IV

On the basis of the discussion made above. I find that the workman is not entitled to any relief. The reference is accordingly answered.

9. In the result, the award is passed without any costs.

10. Let the copies of the award be sent to the Government of India Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1309.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/172, 173, 174/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-40012/299, 300, 301/2000-आई आर(डी.यू.)]

जोहन तोपनो, अवर सचिव

New Delhi, the 19th April, 2011

S.O. 1309.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/172, 173, 174/2000) of the Central Government Industrial Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 19-04-2011.

[No. L-40012/299, 300, 301/2000-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

Presiding Officer : Shri Mohd Shakir Hasan

Case No. CGIT/LC/R/172/2000

Shri Suresh Kumar Sahu,
S/o Shri Jhadu Ram Sahu,
Vili. & Post Rudri,
Distt. Dhamtari, Durg (Chhattisgarh)

... Workman

Versus

The Chief General Manager,
Deptt. Of Telecommunication,
Hoshangabad Road, M.P.Circle,
BhopalThe General Manager,
Telecom District Durg,
Telecommunication Building,
Durg ChhattisgarhThe Junior Telecom Officer,
Incharge Telegraph Office,
Rajnandgaon, Chhattisgarh

... Management

Case No. CGIT/LC/R/173/2000

Shri Dilip Kumar Chowre,
C/o Bhakt Raj Vasnik,
Naya Amanpara,
Post Mohan Nagar
Durg (MP)

... Workman

Versus

The Chief General Manager,
Deptt. Of Telecommunication,
Hoshangabad Road, M.P.Circle,
BhopalThe General Manager,
Telecom District Durg,
Telecommunication Building,
Durg ChhattisgarhThe Junior Telecom Officer,
Incharge Telegraph Office,
Rajnandgaon, Chhattisgarh

... Management

Case No. CGIT/LC/R/174/2000

Shri Afsar Beg,
S/o Shri Ahmed Beg,
Ward No. 34, Patanpara,
Rajnandgaon,
Durg (Chhattisgarh)

... Workman

Versus

The Chief General Manager,
Deptt. of Telecommunication,
Hoshangabad Road, M.P.Circle,
BhopalThe General Manager,
Telecom District Durg,
Telecommunication Building,
Durg ChhattisgarhThe Junior Telecom Officer,
Incharge Telegraph Office,
Rajnandgaon, Chhattisgarh

... Management

AWARD

Passed on this 6th day of April, 2011

1. (a) The Government of India, Ministry of Labour *vide* its Notification No.L-40012/299/2000/IR(DU) dated 25-9-2000 has referred the following dispute for adjudication by this tribunal :—

“Whether the termination of services of Shri Suresh Kumar Sahu S/o Shri Jhaduram Sahu, Ex-Class IV employee w.e.f. 11/11/95 by the management of Telecom Deptt. is justified ? If not, to what relief the workman is entitled ?”

- (b) The Government of India, Ministry of Labour *vide* its Notification No. L-40012/300/2000/IR(DU) dated 25-9-2000 has referred the following dispute for adjudication by this tribunal :—

“Whether the termination of services of Shri Dilip Kumar Chowre S/o Late Prabhudas Chowre, Ex.chowkidar w.e.f. 11/11/95 by the management of Telecom Deptt. is justified ? If not, to what relief the workman is entitled ?”

- (c) The Government of India, Ministry of Labour *vide* its Notification No. L-40012/301/2000/IR(DU) dated 25-9-2000 has referred the following dispute for adjudication by this tribunal :—

“Whether the termination of services of Shri Afsar Beg S/o Shri Ahmed Beg, Ex-messenger w.e.f. 11/11/95 by the management of Telecom Deptt. is justified? If not, to what relief the workman is entitled ?”

2. All the three references are taken up together as all are on a common subject matter and are also on the same point of references.

3. The case of the workmen in short is that Shri Suresh Kumar Sahu and Dilip Kumar Chowre were engaged on daily wages in the year 1987 and the workman Afsar Beg was initially engaged on daily wages in the Head Post Office, Rajnandgaon from 1986 to 1993. Thereafter he was

engaged in the Telegraph office, Rajnandgaon from 1993. They worked continuously till 1995 when they had been terminated without any notice and without complying the provision of the Industrial Dispute Act, 1947 (in short the Act, 1947). It is stated that a large number of casual workers were working in various offices. The management is said to have framed a scheme which is known as "Casual Labours (Grant of Temporary status and Regularisation) Scheme of the Department of Telecommunication, 1989. It is stated that they worked more than 240 days in every calendar year and they are entitled for temporary status on the basis of the said scheme of the department and also for regularization of his service as other casual labours had been regularized by the order of the CAT and their cases is similar. It is stated that the management had violated the provision of Section 25-F or Section 25 N of the Act 1947 and therefore their termination is illegal. It is submitted that the workmen be reinstated with back wages.

4. The management contested the references by filing separate Written Statements on similar grounds. The case of the management, inter alia, is that the workmen were engaged as casual labourers subject to availability of work by the management. Their services were obtained on day to day basis and were paid wages on daily wages as fixed by the Telecom Department. It is denied that they had rendered services continuously. It is further stated that in pursuance to the directions of the Hon'ble Supreme Court, a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of the Department of Telecom 1989 was framed. The benefit of the scheme was required to be extended to those who were in service on 22-6-1988 and should have rendered 240 days services in a calendar year to the cut off date. These workmen have not rendered the requisite services and therefore the scheme could not be extended to them. On these grounds, it is submitted that the references be answered in favour of the management.

5. On the basis of the pleadings, the following issues are framed for adjudication

I. Whether the termination of services of the workmen by the management w.e.f. 11-11-95 is justified and legal ?

II. If not, what relief the workmen are entitled ?

6. Issue No. I

Before discussing the evidence, it appears to be just and proper to say that the workmen have also raised in their statement of claims that they are entitled to be given the benefit of temporary status thereafter regularization in accordance with the "Casual Labourers (Grant of Temporary status and Regularisation) Scheme 1989". The references do not disclose that the Tribunal has to decide the point of Regularisation and for grant of temporary status

under the said scheme. It is a settled principle that the Tribunal can not go beyond the reference. The references are only that the termination of the workmen w.e.f. 11-11-95 is justified. As such those points are beyond references and are out of the jurisdiction of the Tribunal.

7. According to the workmen, Shri Suresh Kumar Sahu has worked 154 days in the year 1994 and 95, Shri Dilip Kumar Chowre has worked 165 days in the year 1995 till 10-11-95 and Shri Afsar Beg has worked 179 days in the year 1995 till 10-11-95. These pleading of the workmen itself show that they had not worked 240 days during a period of twelve calendar months preceding the date with reference to calculate continuous service under the employer as provided in Section 25 B(2) of the Act, 1947. Section 25 B(2) of the Act, 1947 runs as follows—

"Where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

- (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—
 - (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and
 - (ii) two hundred and forty days, in any other case;
- (b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for now less than—
 - (i) ninety five days, in the case of workman employed below ground in a mine; and
 - (ii) one hundred and twenty days, in any other case."

The evidence of the workmen also shows that they were casual employees and had not worked 240 days as continuous service of one year under the provision of Section 25B(2) of the Act preceding the date with reference. Therefore their services are not said to be a continuous service of one year in a 12 calendar months preceding the date with reference and the provision of Section 25-F of the Act, 1947 is not attracted. The termination of the management appears to be justified.

8. The management has also examined oral evidence. The evidence shows that they were engaged as casual labourers subject to availability of work. Considering the

evidence discussed above, I find that the termination of the workmen is justified. This issue is decided accordingly.

9. Issue No. II

On the basis of the discussion made above, the workmen are not entitled to any relief. Accordingly the references are answered.

10. In the result, a common award is passed without any order to costs.

11. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1310.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी पी डब्ल्यू डी एण्ड/और एयरपोर्ट ऑथोरिटी ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 16/09) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-42011/63/2008-आई आर(डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 19th April, 2011

S.O. 1310.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/09) of the Central Government Industrial Tribunal-cum- Labour Court, Jaipur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of CPWD and/or Airport Authority of India and their workmen, which was received by the Central Government on 19-4-2011.

[No. L-42011/63/2008-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

PRESENT:

N. K. PUROHIT, Presiding Officer

I.D. 16/09

Reference No. L-42011/63/2008-IR(DU) dated: 23-3-2009

1. Shri Nijamuddin S/o Sh. Vajir Khan Nagauri R/o Mohalla Sadat Todrai Singh Road, Malpura, Tonk (Raj.)

2. Shivcharan Singh S/o Shri Kusum Singh.
3. Laduram S/o Shri Duyaram.
4. Bhojraj S/o Shri Shakarlal.
5. Kehar Singh S/o Shri Jagat Singh.
6. Ramchandra S/o Late Shri Kishan.
7. Dilip Chandra S/o Late Shri Lal Chand.
8. Chuduram S/o Shri Gulaba Ram.
9. Sohni Devi W/o Late Shri Bhagirath Lal.
10. Geeta Devi W/o Late Shri Jagdish Narayan. (R/o Mohalla Sahadat Todrai Singh Road, Malpura, Tonk (Raj.))

V/s

1. The Director Airport Authority of India Sanganer Airport, Jaipur.
2. The Chief Engineer (Electrical) CPWD, Northern Zone, East Block-1st, Floor-V, RK Puram, New Delhi.
3. XEN, CPWD (Electrical) Kendriya Sadan, Block-A, 1st floor, Sector-10, Vidyadhamnagar, Jaipur.

AWARD

18-3-2011

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication which is as under :—

“Whether the action of the management of CPWD and/or Airport Authority of India in denying payment of arrears to their 10 workmen, as per Annexure, for the period from 1-4-81 to 30-6-90 is legal and justified? If not, to what relief the workmen are entitled and which management should pay the amount of arrears to these workers ?”

2. The workmen have pleaded in their claim statement that they were working with C.P.W.D in Assistant Grade and were subsequently absorbed by NAAI w.e.f. 1-7-90. It has further been pleaded that all the workmen working in Assistant Grade were promoted as Assistant Pump Operator/Wiremen w.e.f. 1-1-1973 in pursuance of the order of Director General, CPWD dated 7-5-1997 and their pay fixation was done vide order of the Executive Engineer, CPWD, Jaipur dated 17-6-2000. As per pay fixation an amount of 2 Lacs 38 thousand as arrears of pay and allowances for the period 1-4-81 to 30-6-90 was payable to them. It has been alleged that arrears of pay & allowances for the said period have been paid to the other workmen but the same has not been paid to the workmen.

Therefore, non-applicant be directed to pay the amount of 2 lacs 38 thousand with 18% interest.

3. The management of the CPWD in their counter statement has admitted this fact that the amount claimed by the workmen was payable to the workmen but the case of the CPWD is that the workmen were in work charge establishment and they were engaged for execution for specific work pertaining to Jaipur Airport and as such their pay and allowances were directly chargeable to "work". It has been pleaded that the workmen are entitled to get the said amount of arrears claimed by them from the NAAI. It has also been pleaded that since the workmen were working with non-applicant No. 1. Airport Authority of India, Sanganer Airport, Jaipur, therefore, the workmen are entitled to get the said amount of arrears from the Airport Authority of India. In this regard matter has already been referred to Ministry of Urban Development vide letter dated 8-6-90 and matter is pending for guidelines from the Ministry concerned.

4. The non-applicant No. 1 Airport Authority of India has denied the claim of the workmen. It has been contended that Airport Authority of India came into existence on 12-9-94. Therefore, the facts pleaded in the claim statement that the workmen were absorbed by the said authority in the year 1990 are apparently wrong. It has been further contended that non-applicant no.1 is not liable to pay the arrears of salary and allowances which are pertaining to the period 1-4-81 to 30-6-90. The claim of the workmen deserves to be rejected.

5. In evidence, the affidavit of the workman Sh. Nizamuddin was filed on 23-7-10 and he was cross-examined on the said affidavit on 9-2-11. At the stage of workmen's evidence the learned representative on behalf of the non-applicant No. 2 and 3 submitted that the amount claimed by the workmen has already been paid to them by cheque. The workmen also submitted applications along with photocopy of the cheque wherein it has been mentioned that they have received the amount of the cheque, therefore, the matter may be disposed of accordingly. The workman Sh. Nizamuddin has also admitted in his cross-examination that the amount claimed as arrears of pay and allowances has already been paid to the workmen.

6. Since, the workmen concerned have admitted that now no dispute exist and their grievances stand redressed, there is no need to adjudicate on merits of the dispute as there is no grievance left with the workmen. Resultantly, no relief is required to be given to the workmen concerned. Under these circumstances, "No Dispute Award" is passed. The reference under adjudication is answered accordingly.

7. Award as above.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1311.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलिट्री इंजीनियरिंग सर्विसेस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 44/06) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-14012/8/2002-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 19th April, 2011

S.O. 1311.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 44/06) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Military Engineering Services and their workmen, which was received by the Central Government on 19-4-2011.

[No. L-14012/8/2002-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

PRESENT

N. K. PUROHIT : Presiding Officer

I. D. 44/06

Reference No. L-14012/8/2002-IR(DU) dated : 6-6-2006

Shri Jitendra Singh
S/o Shri Gajraj Singh
Rep. through General Secretary
Railway Casual Labour Union
Near Daga School,
Bikaner-334001.

V/s

1. The CWE
Military Engineering Services, Bikaner.
2. The GE (Civil)
Military Engineering Services, Bikaner.
3. Shri Sushil Chopra
Contractor, Choudhary Associates Engineers
Building, Nai Lane, Gnaga Shahar, Bikaner.
4. Shri Narayan Kothari
Contractor, Laxmi Construction Company,
Bhatation Ka Chowk, Bikaner-334001.

AWARD**21-3-2001**

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-Section 1 & 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial dispute to this tribunal for adjudication which is as under :—

“Whether the action of the management of Military Engineering Services, Bikaner in terminating the services of Shri Jitendra Singh S/o Shri Gajraj Singh w.e.f. 4-8-2000 is legal and justified ? If not, what relief, the workman is entitled to ?”

2. Pursuant to the receipt of reference order, registered notices were issued to both the parties. On perusal of the proceedings of the case it appears that the applicant did not appear after filing his claim statement. It also appears that the post of the presiding Officer remained vacant during period from July, 06 to August, 09. After posting of the Presiding Officer, on behalf of the non-applicant Shri Kunal Rawat, Advocate appeared on 25-11-09. He sought several adjournments for filing reply & ultimately reply was filed on 3-8-10. It further appears that after appearances on 3-5-10 the applicant did not appear on subsequent dates i.e. 11-6-10, 3-8-10, 21-9-10, 16-11-10, 5-1-11, therefore, ex-party proceedings were drawn against him on 31-1-11.

3. Opportunity to adduce evidence in support of the case was afforded but the non-applicant did not adduce any evidence.

4. Heard learned representative on behalf of the non-applicant.

5. Once the reference has been made it is obvious from the scheme of the act & rules that even though a party has been placed ex-party the Tribunal has to pronounce the dispute & record its findings with respect to the reference under adjudication & reference cannot be rejected. But in the present matter except claim statement & reply to the claim statement, there is no other material on record in support of their respective case.

6. Since the non-applicant has denied the claim of the applicant initial burden was on the workman to prove that alleged action of the management in terminating his service w.e.f. 4-8-2000 is in violation of Section 25(F) & the non-applicant has violated the provisions of Section 25(G) & 25(N) of the I.D. Act. Except pleading of the applicant, there is nothing on record to support his claim but pleading are not substitute for proof.

7. Under these circumstances there is no material on record to decide the reference under adjudication on merits. It appears that the applicant is not willing to contest

the matter further. Therefore, “No Claim Award” is passed in this matter.

8. Award as above.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

क्र.आ. 1312.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 78/05) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-40012/27/2002-आई आर(डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 19th April, 2011

S.O. 1312.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 78/05) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 19-04-2011.

[No. L-40012/27/2002-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR****I. D. 78/05**

Reference No. L-40012/27/2002-IR(DU) dated : 1-7-2006

Shri Raju
S/o Shri Rang Lal
C/o Joint General Secretary
Hind Mazdoor Sabha
Bangali Colony, Chhawani,
Kota-324005.

...Applicant

V/s

The Assistant Engineer
Telecom Civil Sub-Division
Kota-324005.

... Non-Applcant

Present

Presiding Officer	:	Sh. N. K. Purohit
For the Applicant	:	Ex-Party
For the non-applicant	:	Sh. T. P. Sharma

AWARD

25-3-2001

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-Section 1 & 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial dispute to this tribunal for adjudication which runs as under :—

“Whether the action of the management of Assistant Engineer, Telecom Civil sub-Division, Kota in terminating the services of Shri Raju S/o Shri Rang Lal w.e.f. 30-11-2000 is just and fair? If not, to what relief the workman is entitled?”

2. In brief the workman has pleaded in his claim statement that he was engaged as Safaiwala w.e.f. 7-1-99 but his service was terminated without assigning any reason on 1-12-2000. He has further pleaded that he had worked for more than 240 days during period from 7-1-99 to 30-11-2000. Therefore, his termination without any notice or compensation in lieu of notice was in violation of section 25(F). He has alleged that after his termination, new employee has been engaged in violation of Section 25(H) read with Rule 78 of the I.D. Act. He has prayed to reinstate him with back wages & all other consequential benefits.

3. In reply, the non-applicant has denied the claim & contended that the applicant was engaged for contingent services. He did not work continuously for 240 days. He has no right to be regularized. No appointment letter was ever given to him. It has been further contended that no new employee has been engaged for cleaning in contravention of 25(H).

4. In rejoinder, the applicant has only reiterated its earlier averments made by him in his claim statement.

5. It is pertinent to mention that several adjournments were sought on behalf of the applicant for evidence in support of the claim statement. On 3-6-10 last opportunity was given. But on 2-8-10 the representative on behalf of the applicant moved an application stating that the applicant did not contact him since long & also not responding to his letter. Thus, permission be granted to withdraw his vakaltanama. Under these circumstances, registered notice was sent to the applicant for appearance. But despite service of the registered notice the applicant did not appear on 29-11-10, therefore, ex-party proceedings were drawn against him on the said date.

6. The non-applicant has submitted the affidavit of Shri Vijay Singh Meena on 17-2-11.

7. Heard the learned representative on behalf of the non-applicant & perused the record.

8. The case of the applicant is that he had worked for more than 240 days during period from 7-1-99 to

30-11-2000 but his services have been terminated in violation of Section 25(F) of the I.D. Act & subsequent to his termination other employees have been engaged without affording any opportunity of employment to him in violation of Section 25(H) of the I.D. Act.

9. Initial burden was on the applicant to prove his case but he has neither appeared nor adduced any oral or documentary evidence to substantiate his claim and ex-party proceedings have been drawn against him.

10. On behalf of the management affidavit of Shri Vijay Singh Meena MW-1 has been submitted who has stated that no appointment letter was ever given to the applicant. He has also denied the claim of the applicant & has further stated that the applicant had not worked for more than 240 days during period 7-1-99 to 30-11-2000.

11. There is no evidence on record in rebuttal of the non-applicant's above evidence. Even on the basis of photocopies of the payment vouchers which have been produced by the non-applicant in compliance of the order dated 27-4-06, it is not established that the applicant had worked more than 240 days during the period in question i.e. 7-1-99 to 30-11-2000.

12. It is well settled, if a party challenges the legality or action of a management the burden lies upon him to prove the illegality of the alleged action, if no evidence is produced, the party challenging the action of the management must fail. Since, this Industrial Dispute was raised by the workman it was incumbent for him to have appear & substantiate his claim. The applicant has failed to adduce any material on record on the basis of which it can be said that alleged action of the non-applicant was unjustified or illegal.

13. In view of above discussions, the reference under adjudication is answered against the applicant workman. Resultantly, the applicant is not entitled to get any relief. The reference under adjudication is answered accordingly.

14. Award as above.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1313.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/222 से 225 तक/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-40012/118, 31 से 33 तक/96-आई आर (डीयू)]

जोहन तोपनो, अवसर सचिव

New Delhi, the 19th April, 2011

S.O. 1313.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/E/222 to 225/97) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 19-04-2011.

[No. L-40012/118, 31 to 33/96-IR(DU)]

JOHAN TOPNO, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

Presiding Officer : Shri Mohd. Shakir Hasan

Case No. CGIT/LC/R/222/97

Shri Shambhu Saran Prajapati,
S/o Shri Upkari Prasad Prajapati,
Village Kotava,
PO Captanganj,
Distt. Devaria (UP)

... Workman

Versus

The Telecom District Engineer,
Durga Nagar,
Vidisha (MP)

... Management

Case No. CGIT/LC/R/223/97

Shri Radhey Shyam Shrivastava,
S/o Shri Balaprasad Shrivastava,
C/o Shri Rakesh Kumar Shrivastava,
Dhalakpura Kirana shop,
Near Shri Krisihna Mandir,
Vidisha (MP)

... Workman

Versus

The Telecom District Engineer,
Durga Nagar, Vidisha (MP)

... Management

Case No. CGIT/LC/R/224/97

Shri Hari Singh Lodhi,
R/o H. No. 33, Ward No. 33,
Behind Jain College,
Haripura, Vidisha

... Workman

Versus

The Telecom District Engineer,
Durga Nagar, Vidisha (MP)

... Management

Case No. CGIT/LC/R/225/97

Shri Prahlad Singh Yadav,
S/o Shri Hari Singh Yadav,
R/o Village Chakradhunathpur,
PO Gulabganj, Vidisha (MP)

... Workman

Versus

The Telecom District Engineer,
Durga Nagar,
Vidisha (MP)

... Management

AWARD

Passed on this 4th day of April, 2011

1. (a) The Government of India, Ministry of Labour vide its Notification No. L-40012/118/96-IR(DU) dated 23-7-97 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Telecom Distt. Engineer, Vidisha in terminating the services of Shri Shambhu Saran Prajapati w.e.f. 1-5-95 even after such a length of his services in the establishment is justified? If not, to what relief the workman is entitled?”

(b) The Government of India, Ministry of Labour vide its Notification No. L-40012/31/96-IR(DU) dated 17/23-7-97 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Telecom Distt. Engineer, Vidisha in terminating the services of Shri Radhey Shyam Shrivastava, S/o Sh. Balaprasad Shrivastava w.e.f. 1-5-97 is justified? If not, to what relief the workman is entitled?”

(c) The Government of India, Ministry of Labour vide its Notification No. L-40012/32/96-IR(DU) dated 17/23-7-97 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Telecom Distt. Engineer, Vidisha in terminating the services of Shri Hari Singh Lodhi S/o Shri Ram Prasad Lodhi w.e.f. 1-5-95 is justified? If not, to what relief the workman is entitled?”

(d) The Government of India, Ministry of Labour vide its Notification No. L-40012/33/96-IR(DU) dated 23-7-97 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Telecom Distt. Engineer, Vidisha in terminating the services of Shri Prahlad Singh Yadav, S/o Shri Hari Singh Yadav w.e.f. 1-5-95 is justified? If not, to what relief the workman is entitled?”

2. All the four references are taken up together in the ends of justice as all are on common subject matters and on similar set of evidence inter-connected to each other.

3. The case of the workmen, in short, is that they were engaged in different dates in the services of the management at Vidisha as a Temporary employee between the year 1990 to 1993 and worked continuously without

any break till 30-4-1995. Their names were entered in the Muster roll. They daily signed their attendance but on 1-5-1995 they were not allowed to sign on the Attendance Register without any reason and their services were verbally terminated with immediate effect. It is stated that they were never chargesheeted nor any one month notice was given, nor any retrenchment compensation was paid as has been provided under Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). It is submitted that the workmen be reinstated with back wages and cost of the suit.

4. The management appeared separately in all the reference cases and filed identical written statements. The case of the management, inter alia, is that the workmen were never in the services of the management either as a temporary employee or as a casual labour. There is a complete denial of engagement of any of the workmen in the services of the management. As such the question of termination does not arise, nor the violation of Section 25F of the Act, 1947 is in question. On these grounds, it is submitted that the references be answered in favour of the management.

5. On the basis of the pleadings, the following issues are for adjudication—

- I. Whether all or any of the workmen were in the employment of the management as has been claimed for?
- II. Whether the action of the management of Telecom District Engineer, Vidisha in terminating the services of the workman w.e.f. 1-5-95 is justified?

III. To what relief, if any, the workmen is entitled?

6. Issue No. I

To prove the case the workmen have examined oral and documentary evidence. In reference Case No. R/222/97, the workman Shri Shambhu Saran Prajapati is examined. He has supported his case in his evidence that he was engaged on 15-5-90 and worked continuously till 30-4-95. He was under the control of operator of Trunk Room. He has been cross-examined by the management at length. During cross-examination, he has proved the photocopies of the Peon Book which is marked as Exhibit A-I (Paper No. 12/2 to 12/85). It is suggested to this witness that he took Peon Book from Shri Prajapati, J.T.O and did photocopies. This document shows that the workman used to deliver letters of the management. His signatures also appear on the Peon Book which show that by whom the letter was delivered. This shows that he was in the employment of the management. Moreover the management has himself taken his evidence in the cross-examination at the time of testing the veracity of the evidence of the workman. He has further stated in the

cross-examination that Shri K. Jain was incharge of Muster roll. The management has not examined Shri Jain nor has filed the Muster Roll. The management has further suggested to this witness that he was employee of the contractor who did work of the department. There is no case of the management that these workmen were employees of the contractor. The management cannot plead a new case. Moreover suggestion is no evidence unless it is proved by positive evidence. Thus the evidence adduced by the workman Shri Shambhu Saran Prajapati shows that he was in the employment of the management.

7. In reference Case No. R/223/97 two witnesses are examined to prove the case. The witness Shri Radhey Shyam Shrivastava is the workman himself. He has also supported his case. He has stated that he was engaged on 1-1-91 and worked continuously till 30-4-95. He marked his presence on a register and Shri Saurabh Nagai, Junior Telecom Engineer was incharge. He was terminated without any notice and without any compensation. He has been cross-examined at length where he has stated that the management was weeding out the records and he had picked up few registers from there. He has proved those registers in cross-examination. He has stated that those registers were written by the Technician Shri Ksushik Jain and has proved the signature of J.T.O, Shri Gaurabh Nagar over the said register. Those registers are marked as Exhibit A-1 and A-2. There is no challenge that there is no Technician namely Shri K. Jain and J.T.O namely Shri Gaurabh Nagar. Those persons are not examined by the management to contradict the evidence of the workman. Those registers show that it is attendance registers from the month of March 1994 and till 30th April 1995. These registers show that the workmen Radheyshyam Shrivastava and Parladh Yadav had marked their attendance in the registers. Another witness Shri Betali Prasad is a permanent employee of the management. He has come to support the case of the workmen that the workman Shri Radheshyam and Parladh were working in the Telecom at Vidisha. He has also proved the attendance registers which shows that these workmen were working till 30-4-95. He appears to be an independent witness. He is also not inimical to the management. He appears to be the most competent witness to corroborate the case as he was permanent employee and was working in the same establishment at the relevant time. There is no reason to disbelieve the evidence of this witness. Thus the oral and documentary evidence establishes the fact that the workmen were in the employment of the management.

8. In reference Case No. R/224/97 the workman Hari Singh is examined in the case. He has also fully supported his case. He has stated that he was appointed in January 1992 as temporary employee and worked continuously till 30-4-95. Earlier he worked under Store Incharge Shri Tripal Singh continuously. Later from 1994, he was working as Chowkidar in Telephone Exchange and

Shri Gaurabh Nagar, Telecom Office was incharge. He has stated that after termination, the management had burnt many records. In cross-examination, he has supported the case and has proved the register which is marked as Exhibit A-1. The register (Exhibit A-1) shows that it was a visitor register which was kept at the gate. The register further shows that the workman Hari Singh was deputed for work on the gate. He has stated in cross-examination that Shri Gaurabh Nagar, J.T.O had ordered to keep the register. This register corroborates the evidence of the workman that he was employed in the establishment of the management.

9. In reference Case No. 225/97, two witnesses are examined to support the case of the workmen. The first witness Shri Parladh Singh is the workman himself. He has supported his case that he was engaged in February, 1991 and worked continuously till 30-4-95. He has also supported that he marked his attendance on the register. His incharge was Shri Gaurabh Nagar, Junior Telephone Engineer. He has also proved the attendance register in cross-examination which are marked as Exhibit A-1 and A-2. The relevancy of these documents has already been discussed in Reference Case No. R/223/97. Another witness Shri Betali Prasad was permanent employee of the management at the said place at the relevant time. His evidence is also discussed above in Reference No. 223/97. Thus the oral and documentary evidence adduced on behalf of the workmen clearly establishes that they were continuously in the employment of the management from the date of their engagement till their retrenchment.

10. On the other hand, the management has filed evidence by way of affidavit of two witnesses namely Shri L. K. Jain and Shri K. P. Kahar in all the above reference cases. The witness Shri L.K. Jain did not turn up for cross-examination and the management did not like to produce him for cross-examination. As such his evidence is of no use to the management. Another witness Shri K. P. Kahar is Divisional Engineer in the office of TDM, Vidisha. His evidence in all the four reference cases are in verbatim same even paras and full stop. He has denied the engagement of the workmen by the management. He has stated that they never rendered services and the question of termination does not arise. Moreover section 25F of the Act is not attracted. He has stated that he was not posted at the relevant time at Vidisha. He had not examined the muster roll and attendance register. He has further stated that the records had been destroyed but he had not seen any order for weeding out those records. He appears to be not competent witness to say that these workmen were not working at the place. The management has given no explanation and reasoning as to why those officers examined who were working at the relevant time at Vidisha were not examined. There is a specific evidence that Shri Gaurabh Nagar J.T.O and Shri L. K. Jain were incharge and the registers were in the handwriting of Shri Jain but they were also not examined by the management to

contradict the case of the management who were the most competent witness to be examined in the case. In absence of the competent witnesses on behalf of the management, the case of the management is not fit to be relied upon. Considering the discussion made above, it is clear that the workmen were in the employment of the management. This issue is decide in favour of the workmen and against the management

11. Issue No. II

According to the workman, they were engaged as temporary employees and worked continuously till their termination. On the other hand the story of the management is that they were never engaged in the service of the management. Admittedly the provision of Section 25-F of the Act was not complied. On the basis of the discussion of the evidence made above of both the parties, it is clear that the story of the workmen is more probable and reliable in view of the oral and documentary evidence.

12. The learned counsel for the workmen has relied a decision reported in 2011 LAB.I.C(MOC)70(P&H) Bharat Bhushan Vrs. Chandigarh Administration and Others wherein the Hon'ble Court has held that—

“Management is the custodian of the records of its employees. The workmen who generally are daily wage earners are neither issued with appointment letters nor the termination orders. They have to depend on the records furnished by the management. When a workman claims to have worked for more than 240 days in the last 12 preceding months entitling the benefit of S. 25-F of the Act, it is the obligation of the management to produce the relevant records to rebut the claim. Non production of muster rolls for relevant periods obviously creates a presumption of adverse inference against the management. Thus where the management failed to produce the records and expressed its inability to do so, Labour Court has no other option but to draw an adverse inference against the management that the workmen's case was true. Such findings are fully justified and are in accordance with the law and merely the reason for drawing adverse inference specifically not been mentioned in the order would not invalidate the order.”

It is clear that the management has not rebutted the claim of the workmen and the documentary evidence adduced by them. As such adverse inference is to be drawn against the management for no adducing competent witnesses in the case. Thus their termination by the management is not justified. This issue is also decided in favour of the workmen and against the workman.

13. Issue No. II

Since the workmen were admittedly not terminated after complying the provision of Section 25-F of the Act,

they are entitled to be reinstated with back wages. The management is, therefore, directed to reinstate the workmen of the above reference cases with full back wages. Accordingly the references are answered.

14. In the result, a common award is passed without any order to costs.

15. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1314.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 01/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-12011/146/2008-आईआर(बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S.O. 1314.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 01 of 2010) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 19-04-2011.

[No. L-12011/146/2008-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 01 of 2010

Parties: Employers in relation to the management of
Central Bank of India

AND

Their workmen.

By order : MR. JUSTICE MANIK MOHAN SARKAR
... Presiding Officer

APPEARANCES:

On behalf of the : Mr. Gopal Chandra Chakraborty,
Management Advocate.

On behalf of the : Mr. Monoranjan Bhunia and
Workmen Mr. Tapas Biswas, Executive

Committee member and General
Secretary of the union respectively.

State : West Bengal.

Industry : Banking.

Dated : 14th March, 2011.

AWARD

By Order No. L-12011/146/2008-IR(B-II) dated 25-3-2009 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Central Bank of India, Zonal Office, Kolkata in transferring Shri Sudhir Sarkar, CTO from Raiganj Branch (Sikkim) to work there as Head Cashier-II is legal and justified ? What relief the concerned workman is entitled ?"

2. Mr. Gopal Chandra Chakraborty, Ld. Advocate appears on behalf of the management and Mr. Tapas Biswas appears on behalf of the Workmen Union introducing him as the General Secretary of the Central Bank of India Employees' Union on call today.

3. It is submitted by Mr. Biswas that the authorized representative of the union Mr. Monoranjan Bhunia is not present today due to certain inconvenience on his part, but he himself has appeared with an application on behalf of the Workmen Union for disposal of the present reference in view of amicable settlement of the issue out of court. He has further submitted that in the capacity of the General Secretary as well as a self-authorised representative of the union in the same letter of authority authorizing Mr. Bhunia, he is filing such an application.

4. Mr. Chakraborty, Ld. Advocate for the management Bank has also submitted that actually the dispute in the present reference has been settled as stated on behalf of the Workmen Union.

5. I have gone through the application filed today on behalf of the Workmen Union wherein the union has stated elaborately about the settlement of the dispute and has prayed for disposal of the present reference as mutually and amicable settled, though the terms and condition of the settlement has not been attached with the said application.

6. In view of the said prayer from the side of the Workmen Union, let the present reference be disposed of as amicably settled in between the parties and thus treating an end of the Industrial dispute here.

An Award is passed accordingly.

Kolkata, Dated,
the 14th March, 2011

JUSTICE MANIK MOHAN SARKAR, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1315.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 35/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-12012/89/2006-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S.O. 1315.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 35/2007) of the Central Government Industrial Tribunal-Cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 19-4-2011.

[No. L-12012/89/2006-IR(B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH**

Case I.D. No. 35/2007

Sh. Ajit Kumar, S/o Sh. Lali Ram, R/o 259-F, Railway Colony,
Ambala Cantt, Distt. Ambala (Haryana)

....Applicant

Versus

The Manager, Punjab National Bank, Branch Saha, Tehsil
Saha, Ambala (Haryana)

.... Respondent.

APPEARANCES

For the workman : Sh. R.K. Verma

For the Management : Sh. S.C. Negi

AWARD

Passed on 28th March, 2011

Government of India, Ministry of Labour and
Employment vide Notification No. L- 12012/89/2006-IR(B-II) dated 7-06-2007 referred the following Industrial dispute
for adjudication to this Tribunal :-

“Whether the action of the management of Punjab
National Bank, Saha in terminating the services of
Sh. Ajit Kumar S/o Sh. Lali Ram, Ex-part time Sweeper

w.e.f. 2-3-2005 without complying with the
provisions of Section 25-F G & H of the I. D. Act,
1947 is justified and legal? If not, to what relief the
workman is entitled?”

After receiving reference parties were informed
Parties appeared and file their respective pleadings. The
case of workman in nutshell is that he was engaged by
the Punjab National Bank at its Saha Branch on 5-7-2004
as part time sweeper. His services were terminated by the
bank on 5-11-2004 without any notice or without payment
of one month's wages in lieu of notice and without payment
of any retrenchment compensation. It was the permanent
nature of work to which the workman was engaged. After
the termination of his services Amarjit Singh was engaged
against the provisions of Industrial Disputes Act. On the
basis of above, the workman has requested for an order
setting aside the termination and for consequential order
for reinstatement with all other benefits.

Management appeared and opposed the claim of
the workman by filing written statement. The nature of
initial appointment was challenged by the management.
In preliminary objections and parawise reply, the
management has taken contradictory pleadings. The
management has approach this Tribunal with the
contention that workman was never engaged by the
management. On the other hand in para No. 1 of parawise
reply, it is contended that the services of workman were
utilized during the month of February 2005 only and he
was paid Rs. 4000 as labour charges. He was never
recruited as a part time sweeper and cannot be treated as
the workman. The management in its preliminary objections
by citing the law laid down by the Honorable Apex Court
in Secretary State of Karnataka and others vs. Uma Devi
reported in 2006 (3) RSJ 572 had stated that appointment
of the workman was against the rules and he cannot be
absorbed in the regular service. In para No. 1 of parawise
reply, the management has also accused the workman for
befooling the management by providing 2/3 school-leaving
certificates of different schools.

The parties were afforded the opportunity for
adducing evidence. The workman Ajit Kumar filed his
affidavit and he was cross-examined by learned counsel
for the management. In support of workman Sh. Sonu and
Sh. Pawan Kumar filed their respective affidavits and they
were cross-examined by the learned counsel for the
management.

On behalf of the management one Sh. Suresh Negi
filed his affidavit and he was cross-examined by the learned
counsel for the workman. All the relevant documents
have been filed by both of the parties and were marked
Exhibits as per rules. The genuineness of documents filed
by the management have not been challenged by the
workman. Likewise, the genuineness of the documents
filed by the workman has not been challenged by the
management.

Heard the parties at length and perused the entire materials on record.

Industrial Disputes Act protects certain rights of every workman. The rights which are protected and are in question are as follows :-

1. If a workman is engaged in any capacity may be as casual worker, daily waged worker, ad hoc or in any other capacity and has substantially worked for a year continuously, his right to work is protected. Meaning thereby, if any person has continuously worked 240 days in the preceding year from the date of his termination, his right is protected against illegal termination. The Industrial Disputes Act recognizes the right of management for terminating the services of a casual worker (workman) but the same is regulated as per the provisions of the Act. The procedure given in the Industrial Disputes Act for termination is sine qua non. Thus, before terminating the services of any workman, a month or one month wages in lieu of notice is mandatory. Likewise, lawful retrenchment compensation is also mandatorily paid before terminating the services of any workman.

From the above discussion, it is clear that as per the contention of the management in para No. 1 of parwise reply of the written statement, Sh. Ajit Kumar is a workman. But he failed to prove that he has substantially continuously worked for a year before the date of his termination. There is no iota of evidence to prove that workman has completed 240 days of work with the management prior to the date of his termination. Thus, the workman is not entitled for the protection of this right.

2. The another rights which is protected by the Industrial Disputes Act is the right for the protection of priority to work. If the services of any casual worker have been terminated and the same nature of work is available the priority shall be given to the retrenchee. Likewise, if the work is available the services of workman shall not be terminated casually without any lawful cause. The same can be terminated on the basis of first come last go principle.

If the evidence of management in this case is perused, it is clearly established that the work for which workman was engaged was of perennial nature (permanent nature). Some other persons, after termination of the services of Sh. Ajit Kumar were engaged is also established. The witness of management Sh. Suresh Chand Negi admitted that some lady workman named Rozy is presently working in the bank. It is also admitted that she is also working on consolidated wages. Thus, it is clearly established that after termination of services

of Sh. Ajit Kumar, the workman, services of some other persons were taken.

It has been established by documentary evidence that workman is also guilty of foul play with the management. He has provided three certificates of educational qualifications for getting the job. When this fact came to the notice of the management, the prayer of Branch Manager for engaging the workman Sh. Ajit Kumar as part time sweeper was turned down. The certificates are on record. These are two certificates issued by different institute for his different educational qualifications. Thus, the workman was guilty of giving wrong and incorrect information to the management for getting the job. Public appointment is open to all who fulfill the criteria. Giving false information at the initial stage may resulted in the violation of rights of other persons who fulfil the criteria. Thus, on account of conduct of workman, I am of the view that no relief should be given to him. No doubt the work was of perennial nature and some other person was engaged for exigency of work, but the bank was justified not to provide the work to the workman for tendering wrong and incorrect information.

This reference is accordingly answered. The workman is not entitled for any relief. Let Central Government be approached for publication of award, and thereafter, file be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1316.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पारादीप पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 9/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-38011/01/2010-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S.O. 1316.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 9/2010) of the Central Government Industrial Tribunal-Cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the management of Paradip Port Trust, Paradip, Dt. and their workmen, received by the Central Government on 19-4-2011.

[No. L-38011/01/2010-IR(B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
BHUBANESHWAR

PRESENT:

Shri J. Srivastava,
 Presiding Officer, C.G.I.T.-cum-Labour Court,
 Bhubaneswar.

INDUSTRIAL DISPUTE CASE No. 9/2010

Date of Passing Award— 25th March 2011 Lok Adalat

BETWEEN:

The Management of the Chairman,
 Paradip Port Trust, Paradip,
 Jagatsinghpur. ... 1st Party-Management

And

Their workmen represented through the
 General Secretary, Paradip Dock & Transport
 Workers' Union, Nishamani Bhawan, Paradip Port,
 Jagatsinghpur

...2nd Party Union

APPEARANCES:

Shri Aswini Kumar For the 1st Party-
 Mohanty, Asst. Estate Management
 Manager, Estate Wing

Shri Gagan Bihari For the 2nd Party-
 Mohanty, General Union.
 Secretary.

ORDER

Case taken up today before Lok Adalat. Authorized representative for the 1st Party-Management is present and files hazira along with letter of authorization. The General Secretary of the 2nd Party-Union is present in person and files hazira.

Heard both the parties. They have filed an out of court settlement in Form-H made between the parties on 3-3-2011 which has been duly signed and authenticated by both the parties. The dispute has been settled by the parties amicable out of the court. The settlement in Form-H shall form part of the award. The reference is answered accordingly.

Dictated & Corrected by me.
 CGIT-cum-Labour Court.
 Bhubaneswar.

J. SRIVASTAVA, Presiding Officer

FORM-H

Memorandum of Understanding Executed between Port Management and Paradip Dock & Transport Workers Union relating to inclusion of the Cargo Handling Workers in the General Priority list of Port Employees for allotment of port trust quarters.

sub : Inclusion of Cargo Handling workers in the General priority list of Port Employees for allotment of quarters.

General Secretary, Paradip Dock & Transport Workers Union had filed an Industrial Dispute before the Asst. Labour Commissioner (C), Bhubaneswar vide I. D. Case No. 8 (16)/2009 relating to allotment of PPT quarters in favour of CH workers. The dispute was ended with failure and the matter was referred to the Ministry of Labour vide letter No. L-38011/01/2010-IR(B-II), Dtd. 3-6-2010 with the following schedule of Industrial Dispute for adjudication as provided under Sec. 10 (i)(d) and sub-section (2-A) of the I.D. Act, 1947 by the Hon'ble Tribunal.

SCHEDULE

"Whether the demand of the Union for allotment of quarters in favour of Cargo Handling workers from a common seniority list of cargo handling workers and PPT employees to be prepared in the light of the settlement dtd. 30-6-1994 is legal or justified? What relief the workmen are entitled to?"

In response to claim petition of the General Secretary, Paradip Dock & Transport Workers Union in TRID Case No. 9/2010 forwarded by the Secretary POCGIT, cum-Labour Court, Bhubaneswar this memorandum of understanding is executed between PPT and General Secretary, Paradip Dock & Transport Workers Union.

That on 27-8-2010 in the meeting No. 4/2010-11, Agenda Item No. 1 (04)/2010-11 (Note to Board), the Board of Trustees of PPT have newly framed the Paradip Port Employees (Allotment of Quarters) Orders, 2010. After decision of the Board, the allotment order of Port quarters, 2010 was published in the Port Gazette on 1-9-2010. According to the newly framed allotment Order, the Port management have already included the Cargo Handling workers in the general priority list of Port employees for allotment of Port quarters.

In obedience to the Board's approval, a common priority list has been prepared by Estate Wing, PPT where all the Cargo Handling employees have been included taking note of their date of joining as 1-4-1983 in the regular Port service without any discrepancy. After preparation of the common priority list the eligible Cargo Handling workers are being allotted with PPT quarters according to their seniority as per the common priority list.

This memorandum of understanding is made between the management of Paradip Port Trust and the General Secretary, Paradip Dock & Transport Workers Union on Dtd. 28-2-2011 in presence of officials of Port management and the representative of the Paradip Dock & Transport Workers Union for closing the TRID. Case No. 9/2010 by passing an award.

**Officials of Port management representatives of the
Paradip Dock &
Transport Workers
Union**

- | | |
|---|--|
| 1. K. thirumoolax
Estate Office PPT | 1. Gagan Bihari
Mohanty G Secretary
P. DSTWU |
| 2. Suresh Chandra Singh
Asst. Secy.(E) PPT | 2. Ananta Kumar Das
Secretary |

नई दिल्ली, 19 अप्रैल, 2011

क्र.आ. 1317.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/97/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-12012/29/2002-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

J.O. 1317.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. CGIT/LC/R/97/2002) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Allahabad Bank and their workmen, received by the Central Government on 19-4-2011.

[No. L-12012/29/2002-IR(B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/97/2002

Presiding Officer : Shri MOHD. SHAKIR HASAN

Shri Ashok Pawar,
S/o Lakshman Pawar,
H. No. 849, Banganga,
T.T. Nagar,
Bhopal (MP)

..... Workman

Versus

The Asstt. General Manager,
Allahabad Bank,
Near Chetak Bridge,
6, Gautam Nagar,
Bhopal (MP)

..... Management

AWARD

Passed on this 8th day of April 2011

1. The Government of India, Ministry of Labour vide its Notification No. L- 12012/29/2002-IR (B-II) dated 18-6-2002 has referred the following dispute for adjudication by this tribunal:—

“Whether the action of the management of Asstt. General Manager, Allahabad Bank, Bhopal in terminating the services of Shri Ashok Pawar w.e.f. 30-12-2000 is justified? If not, what relief the workman is entitled for?”

2. The workman did not appear in the reference inspite of notice. The then Tribunal proceeded ex parte against the workman on 10-9-2007.
3. The management appeared and filed Written Statement. The case of the management in short is that applicant/so called workman was never employed by the management in the Bank. There was no relationship of employer and employee between the management Bank and the applicant/workman. It is stated that since he was not in employment, the question of termination from service does not arise. The applicant was never employed as a Driver by the management Bank. He was employed in the personal capacity by the officer of the Bank. The applicant is not entitled to any relief.
4. The following issues are framed for adjudication—
I. Whether Shri Ashok Pawar was in the employment of the Bank.
II. If so, whether the termination of Shri Pawar w. e. f. 30-12-2000 by the management Bank is justified?
III. To what relief the workman is entitled?

5. **Issues Nos. I & II**

To prove the case, the management has adduced one witness in the case. Shri U. S. Tripathi is at present working as Asstt. General Manager in the Bank. He has stated in his evidence that the applicant was never employed by the Bank and therefore the question of alleged termination on 30-11-2008 did not arise. His evidence is un rebutted. The burden was on the workman to establish that he was ever engaged in the Bank but he did not appear to corroborate the fact and to rebut the evidence of the management. Thus it is clear that there was no relationship between the management Bank and the applicant/workman as employer and employee. These issues are, therefore decided in favour of the management.

6. **Issue No. III**

On the basis of the discussion made above, it is clear that the question of termination from service

does not arise when there was no relationship of employer and employee. Thus it is clear that the applicant/workman is not entitled to any relief. Accordingly the reference is answered.

7. In the result, the award is passed without any order to costs.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

क्र.आ. 1318.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ संख्या 1/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-4-2011 प्राप्त हुआ था।

[सं. एल-12012/235/2003-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S.O. 1318.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Punjab and Sind Bank and their workmen, received by the Central Government on 19-4-2011.

[No. L-12012/235/2003-IR(B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri A. K. RASTOGI, Presiding Officer

Case No. I. D. 1/2k4

Registered on 17-05-2004

Sh. Daya Nand S/o Sh. Shiv Chand, R/o Ward No. 6, 300, New Mandi Road, Mandi Dabwali (Sirsa).

... Applicant

Versus

The Zonal Manager, Punjab and Sind Bank, Zonal Office, Sector 17-B, Chandigarh- 160017.

....Respondent

APPEARANCES :

For the Workman : Sh. Arun Kumar Batra, Advocate.

For the Management : Sh. J. S. Sathi, Advocate.

AWARD

(Passed on 16 March, 2011)

Central Government vide Notification No. L- 12012/235/2003-IR(B-II) Dated 29-04-2004, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section 2(A) of the Industrial Disputes Act, 1947 (hereinafter referred to as Act) has referred the following Industrial Dispute for adjudication to this Tribunal :—

“Whether the action of the management of Punjab and Sind Bank in terminating the services of Shri Daya Nand S/o Shiv Chand, Ex-Peon (Daily Wage Basis) w.e.f. 1-2-2002 without any notice and without any payment of retrenchment compensation etc. in violation of the statutory provisions of Section 25-F, G and H, is legal and just? If not, what relief the concerned workman is entitled to and from which date?”

As per claim statement the workman was appointed as temporary peon on daily wage basis and he worked in different branches of the Punjab and Sind Bank (hereinafter called the bank) from 1-05-1982 to 31-01-2002. From 3-10-1998 to 31-01-2002 he however, continuously worked at Branch Office, Sirsa. On the instructions of respondent Zonal Manager, Haryana of the Bank, the services of the workman were however terminated with effect from 1-2-002 in violation of Section 25-F of the Act and without issuing any termination order. The workman had alleged that he had completed more than 240 days service in each year and also in the preceding 12 calendar months before his termination. His services were terminated just to defeat his claim of regularization though the work still exists with the management. He has alleged the violation of the ‘Sastri Award’ also and has claimed his reinstatement with full back wages and continuity of service.

The claim was contested by the management. It was alleged that the workman had been engaged by the Branch Manager as casual labour to meet the exigencies of service without following any procedure therefore, he is not entitled to the protection of Section 25F of the Act. The termination of services of employee appointed on the basis of need or work cannot be construed to be retrenchment. Pursuant to the Government guidelines, the bank had issued strict instructions banning the appointment of fresh, temporary/casual workers and Head Office (Personnel Department), Punjab and Sind Bank has issued instructions in 1997 to the effect that subordinate staff should not be employed on temporary or permanent basis in the bank unless he is registered with the Employment Exchange and prior permission has been obtained for making such

recruitments in sub-staff. It has also been instructed to confirm that no temporary Peon has been engaged by any of the Branch Manager after October, 1992 and any violation would be viewed seriously.

In a rejoinder to the written statement of respondent, the claimant has alleged that he was on the panel of temporary employees available with the respondent and was appointed on the concurrence and advice of the respondent management. He fulfils the qualifications required for the appointment and has discharged his duties honestly and diligently for a long period from 1982 to 31-01-2002 with notional breaks. He is not claiming his regularization but his reinstatement with back wages. Instructions for not engaging the temporary Peons are simply to hoodwink the provisions of law and amounts to unfair labour practice in terms of Section 2(ra).

From the pleadings of the parties it is clear that the workman is not claiming the regularization of his services but only claiming reinstatement with back wages and the management is not disputing the non-compliance of Section 25F of the Act. It has not disputed Para 4 of the claim statement also wherein it has been specifically stated that the workman completed more than 240 days service in each year from 1998 to 2002 and also in the preceding 12 months before the date of the termination of his services.

As per reference order this Tribunal has to adjudicate whether the termination of the services of the workman is in violation of statutory provisions of Section 25F, G & H of the Act. The violation of 'Sastri Award' or Bi-partite Settlement, or unfair labour practice is not the subject matter of the reference. It is also to be noted that the claimant has not alleged the violation of Section 25G and 25H of the Act. Hence, from the pleadings of the parties following issues arise for consideration, within the scope of reference order:—

1. Whether the claimant is entitled to the protection of Section 25-F of the Act?
2. To what relief is the workman entitled?

In support of his claim the workman tendered his affidavit while on behalf of management affidavit of Pritpal Singh, Manager, Sirsa Branch of the Bank was tendered. Besides it, the workman filed paper marked 'A' by way of evidence of his appointment. On the application of the workman the management submitted extract from the Salary Register, Account Statement, List of Staff Members, empanelment of temporary Peons dated 30-02-1996 and the salary details of the workman.

I have heard the learned counsel for the parties and perused the record. My findings on the various issues are as follows :—

Issue No. 1.

For the portection of Section 25F of the Act, it is required that the workman should have been in continuous

service for not less than one year under the employer and as per definition clause 25-B of the Act a workman shall be deemed to be in service under an employer for a period of one year if the workman during a period of 12 calendar months preceding the date of his termination has actually worked for not less than 240 days.

As it has been stated above, management has not specifically denied that the workman worked for more than 240 days in 12 calendar months preceding the termination of his services w.e.f. 1-02-2002. From the salary statement of the workman submitted by the management, which is paper No. 98 of the record, it appears that from February 2001 to January 2002, the workman received salary for full months except for the month of May, 2001 and August, 2001 when he got salary of 29 days only. Therefore, there remains no doubt that the workman had completed more than 240 days' service in 12 calendar months preceding the date of his termination.

The respondent had pleaded and it was argued by his learned counsel as well that the workman was not engaged as per recruitment procedure and therefore, he is not entitled to the protection of Section 25-F of the Act. The learned counsel for management has placed reliance on Headmaster Government High School, Behrana *Versus* Ajit Singh & Another 2003 (5) SLR 766.

I have carefully perused the judgment of the Hon'ble Court in the above case. The head-note of the citation is misleading. The Hon'ble High Court has no where laid down that the provisions of Section 25 of the Act are not applicable to the case of a workman, who had made an entry into the service from back door. The Hon'ble Court has denied the right of reinstatement to such a workman. It quashed the award of the Labour Court stating that all appointments of on government jobs had to be made in accordance with the statutory rules and to uphold the award of reinstatement would place a premium on the error already committed, in granting illegal appointment to the workman.

The Hon'ble High Court in the said case has cited an earlier decision of the Division Bench of the same High Court in Brij Bhushan *Versus* Industrial Tribunal-cum-Labour Court, Panipat (1998) 2 PLR 818 in which the Hon'ble High Court held that it is necessary for the courts to refuse a relief of reinstatement to an employee who may have got entry in the public service by unlawful or unfair means. In other words if the court finds that the employee (workman) is the beneficiary of the fraudulent system of employment or if it finds that he is a back door appointee, the prayer for reinstatement may be refused. Even through the termination of the services of such an employee may have been brought out without compliance of the mandatory provisions contained in Section 25F or 25G.

It is thus clear that the Hon'ble Court has denied the relief of reinstatement even if there is non-compliance of

mandatory provisions of Section 25F of the Act. It was not laid down that the management need not to comply the condition precedent to retrenchment of workman provided in Section 25F of the Act. Section 25F of the Act does not make a provision for the relief; a workman is entitled to in case of violation of its provisions.

In *Srirangam Cooperative Urban Bank Limited Versus Labour Court Madurai 1996(2) LLJ 216* where the workman was appointed as a temporary clerk by the bank, in defiance of its rules and regulations, the termination of his service was held to be retrenchment in view of the wide amplitude of the language of the definition of 'retrenchment', by a Division Bench of Madras High Court. The Hon'ble Court held that where the appointment was made in accordance with the law or not, does not make any difference, and what is of relevance is the fact of employment and not the legality of otherwise of it.

Similarly, a Division Bench of Madhya Pradesh High Court in *Rajesh Kumar Versus State of Madhya Pradesh (1994) 2LLJ 320* held that termination of the employment of a probationer or of an invalidly appointed worker will be a retrenchment because an invalid appointment is not one of the exceptions to the provisions of the main definition of retrenchment.

In the present case there is no record to show that the name of the workman had been sponsored by the Employment Exchange and he had been appointed after following due procedure. Though it is true that the name of the workman finds place in the panel of temporary Peons dated 23-02-1996, paper No. 96, filed by the management on the application of the workman and the letter of the of General Manager marked 'A' shows that the Branch Manager of Sirsa Branch had been advised to engage workman as temporary Peon for 60 days. But these documents cannot be accepted as a proof of appointment of the claimant in due process of recruitment. The management can rightly terminate the services of the workman but that can be done only after compliance of the Section 25F of the Act. The workman is entitled to be protection of Section 25F of the Act though he had been engaged without following due procedure. Issue No. 1 is, therefore, decided in favour of the workman/claimant.

Issue No. 2

From the above going discussions it is clear that the workman is entitled to the protection of Section 25F of the Act and his services were terminated without following the provisions of Section 25F of the Act. Obviously, the termination of his service is illegal and non-est but from the law cited above it is clear that he cannot be granted the relief of reinstatement. In such a case, the workman is entitled to just and proper compensation. From 03-10-1998 to 31-01-2002 the workman was in continuous service of the bank for about 2 years and 4 months. From the salary statement it appears that he was drawing about Rs. 3925 p.m. as salary including Basic Pay, D.A. and H.R.A. In my opinion, a compensation of Rs. 1,00,000 (Rupees one lakh

only) will be just and proper in lieu of reinstatement and back wages. Issue No. 2 is decided accordingly.

As stated above, the workman has not alleged the violation of the provisions of Section 25G and 25H of the Act. The action of the management of bank in terminating the services of the workman without any notice and without any retrenchment compensation etc. is in violation of S. 25F of the Act and is not legal and just, and the workman is entitled to get a compensation of Rs. 1,00,000 (Rupees one lakh only) from the management in lieu of reinstatement and back wages. Reference is accordingly answered in favour of the workman. Management is directed to Pay the awarded compensation to the workman within a month from receiving a copy of this award. Let two copies of award after due compliance be sent to the Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1319.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय 2, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी-2/44/ऑफ 2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-4-2011 प्राप्त हुआ था।

[सं. एल-12012/111/2003-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S.O. 1319.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. CGIT-2/44 of 2003) of the Central Government Industrial Tribunal-Cum-Labour Court No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the management of Dena Bank and their workmen, received by the Central Government on 19-4-2011.

[No. L-12012/111/2003-IR(B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 2, MUMBAI**

PRESENT : K. B. KATAKE, Presiding Officer

Reference No. CGIT-2/44 of 2003

Employers in Relation to the Management of Dena Bank
The Personnel Department,
Dena Bank, C-10, G Block, 3rd floor,
Bandra-Kurla Complex,
Bandra (East),
Mumbai- 400 051

AND

Their Workmen

Mr. Maxy Joseph Jacinto,
Post Uran, Mohatagaom,
Via Bhayandar,
Thane-401 106.

APPEARANCES:

For the Employer : Ms. Nandini Menon, Advocate

For the Management : Mr. Abraham Mathew, Advocate

Mumbai, dated the 21st February, 2011

AWARD

1. The Government of India, Ministry of Labour and Employment by its Order No.12012/111/2003-IR (B-II) dated 14-8-2003 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:—

“Whether the action of the management of Dena Bank in terminating the service of Mr. Maxy Joseph Jacinto, Ex-Peon without following due procedure w.e.f. 8-12-2001 is legal and justified? If not, what relief is the concerned workman entitled to?”

2. Statement of Claim is filed at Ex. 7 by second party workman. According to him, he was serving as a temporary peon for the period May 1996 to 8-12-2001 at Uttan Branch of First Party Bank. Though he was designated as a temporary Peon, he was discharging the duties of permanent nature of a regular peon. He was not paid the wages of a Peon. They used to pay him Rs. 50 per day towards his salary. He was not given any other benefit. He has worked more than 240 days in each calendar year. Hence he is entitled to the regular post of Peon. According to him, he is entitled to be regularized in the service. For that purpose, he approach the Branch Manager requested him to increase his wages and to pay him various other benefits available to the employees. However instead of increasing his wages, the first party management terminated his service abruptly and illegally without assigning any reason. The second party workman wrote a letter to the General Manager of first party Bank demanding reinstatement with full back wages and also had claimed continuity of service. The first party Bank did not reply the letter and refused to reinstate him to the service. Therefore the second party worker approached to the Assistant Labour Commissioner (Central) on 18-3-2002 requesting him to intervene in the matter. The ALC called the representative of first party. However, as first Party did not give any response, the conciliation failed. Therefore at the instance of Assistant Labour Commissioner, the Labour Ministry, Government of India

has sent the reference to this Tribunal. The second party workman prays that the termination of his service be declared illegal. He also prays for direction to the first party to reinstate the second party workman in the service with full back wages and also request to direct the first party to regularize his service as a permanent worker.

3. The first party resisted the statement of claim vide their written statement at Ex. 9. According to them, the reference is not tenable as the second party workman is not their employee. He was not appointed or no appointment letter was given to the second party worker. As there is no relationship between the first party Bank and second party workman as employer-employee, the reference is not tenable. According to them, first party Bank is a statutory corporation constituted under the provisions of the Banking Company's Act. They further submitted that recruitment of their subordinate staff against permanent vacancies is filled up as per the procedure laid down in the rules. There are guide lines of Government and accordingly rules are framed. The Banks are required to follow the recruitment procedure for appointment of subordinate staff. They are supposed to call list of candidates fulfilling the norms of age, qualifications etc. from the Employment Exchange. The panel of eligible candidates is prepared in order of merit after their interview. After following the procedure, candidates can be appointed against the permanent vacancies.

4. The second party worker was appointed purely on temporary basis. As per the settlement dated 10-4-1989, the Bank has assured to give preference to the permanent part time employees at the time of filling up the vacancies of permanent posts. In the case at hand, the second party workman was appointed only on temporary basis for doing odd jobs. He was paid a lump sum amount proportionate to the work done by him. He was not appointed as an employee of the Bank at any point of time. The Bank as per rule 20 sub clause 7 can engage services of such persons. They denied that the second party workman was either appointed as employee of the Bank. They also denied that the workman had worked continuously for 240 days every year. In the circumstances, the first party Bank submits that neither the workman is entitled to the declaration sought for nor he can be reinstated. So also question of regularizing his service does not arise. Therefore the first party Bank prays that the reference be rejected with cost.

5. The second party worker has filed rejoinder to the written statement at Ex. 11. He denied the contents in the written statement and also denied the allegations made by the first party Bank in their written statement that the second party worker was engaged for temporary purpose on fixed amount. He made repetition of the contents in the statement of claim. He also repeated the prayer made in the claim statement.

6. Following are the issues framed by my Ld. Predecessor at Ex. 19. They are:

Issues	Findings
1. Whether the second party was the employee of first party Bank and whether there exist employee-employer relations between them?	No
2. Whether second party workman worked continuously for 240 days in a calendar year and entitled to be regularized in the service of the Bank?	No
3. Whether the action of management in terminating the services of the second party workman is legal and justified?	Yes
4. Whether second party workman is entitled to the relief sought for?	No
5. What order?	As per order

Reasons

Issue Nos. 1 to 4:

7. All these Issues are interlinked. Therefore, in order to avoid repetition of discussion they are discussed and decided simultaneously. It is the case of the second party workman that he was appointed as a temporary Peon and he worked for 240 days each year from May 1996 to 8-12-2001. According to him the Bank authority did not give any document to him. They have not issued appointment order, neither he was allowed to sign the muster roll. His name was also not on the muster roll of the employees of the Bank. His name is also not reflected on the pay roll. No pay slip was issued to him. Salary was paid to him on vouchers. Therefore, the workman has absolutely no documentary evidence with him. In this respect the Ld. Advocate for the second party workman submitted that workman had applied under Right To Information Act and sought for the documents from the Bank, who must have maintained the record in respect of his service. However, according to him the Bank authority did not supply the documents even under RTI Act. The workman has approach to the Appellate Authority under RTI Act. However, Appellate Authority has also rejected the appeal. The workman has produced with his affidavit at Ex. 22 the Xerox copies of the correspondence with the Bank authority and the order passed by the Appellate Authority under RTI Act. As original documents are not produced. Therefore, the Xerox copies cannot be exhibited.

8. According to the second party workman Bank authorities have refused to supply him the copies of material documents in respect of his service record. Therefore, Ld. Advocate for the second party workman submitted that adverse inference should be drawn against the first party Bank management and conclusion should be drawn that the second party workman has completed service of 240 days

continuously in a calendar year. In support of his arguments the Ld. Advocate for the second party workman resorted to Bombay High Court ruling in Dena Bank Employees Union. Hyderabad v/s. Industrial Tribunal-I A.P. Hyderabad and another wherein the Hon'ble Court observed that—

“The Respondent want only evading to produce the records. The workman had infact discharged his initial burden by adducing evidence. The burden then shifts to the management to prove that the workman had not worked for 240 days, which management failed to discharge. The Tribunal erred in holding that workman has not discharged his burden in proving that he worked continuously for 240 days.”

9. The Ld. Advocate for second party workman further submitted that the service of the workman was terminated illegally without following the procedure there for, therefore, the workman is entitled to the declaration to that effect and he is also entitled to be continued in service with consequential benefits. In support of his arguments the Ld. Advocate for the workman referred Apex Court ruling in Mohan Lal v/s. the management of M/s. Bharat Electronics Ltd. in para 17 of the judgment the Hon'ble Apex Court observed that—

“Whether the termination is illegal especially where is an ineffective order of retrenchment, there is neither termination nor cessation of service and declaration follows that the workman concerned continues to be in service with all consequential benefits viz. back wages in full and other benefits.”

In the light of above rulings the Ld. Advocate for the second party workman submits that the workman has completed 240 days of service each year since 1996 upto the year 2001. Therefore, he was entitled to be regularized in the service of the Bank. The Ld. Advocate further pointed out that as service of the workman was terminated abruptly without following procedure there for thus the said termination was illegal. Therefore, he submitted that the workman is entitled to be reinstated with full back wages and other consequential benefits. He is also entitled to be regularized in the services of the Bank.

10. As against this, the Ld. Advocate for the first party management submitted that the second party was never appointed as a Peon as has been claimed. According to them he was called and appointed as a casual worker to do some casual works in the absence of some other employees during their leave period. The Ld. Advocate for the first party management pointed out the admission given by the second party workman in his cross at Ex. 24, wherein the second party workman admitted that no appointment letter was issued to him by the Bank. He was not supplied with Identity Card. He was not permitted to sign on muster roll. He further admitted that even his name was not on muster roll. He further says that no pay slip was issued to him and payment was made to him on voucher.

He further says no termination order was served on him. In the circumstances, the Ld. Advocate for the first party workman submitted that workman himself admitted that no such documents are in existence such as letter of appointment, muster roll or termination order etc. Neither any appointment letter was issued to him nor he was served with letter of termination. His name was also not on the muster roll. In the circumstances, mere production of payment vouchers is not sufficient to show that the workman was appointed as a temporary Peon. The vouchers on record with list Ex. 16 are of a meager amount such as of Rs. 120 issued on 2-4-1998, another voucher is of Rs. 160 issued on 22-4-1998 the third voucher of Rs. 240. These vouchers are issued for the work done by the second party workman for few days such as 14 days, 6 days, 13 days, in a month, in the absence or in the leave period of the regular employees. The Ld. Advocate for first party management therefore submitted that such a worker who has worked casually during the leave period cannot be said to have been appointed as a temporary Peon.

11. The Ld. Advocate for the first party management further submitted that the first party is Nationalized Bank. They have to recruit all the employees after following the recruitment procedure. To fill up the post of Peons they have to call list of eligible candidates from Employment Exchange. After interview of the candidates, the select list is prepared as per the merit of the candidates, thereafter the appointment letters are issued. The Ld. Advocate submitted that casual worker cannot be regularized in service who is not appointed after following the due procedure prescribed under the rules. In support of her argument the Ld. Advocate for the first party management resorted to number of Apex Court rulings in A. Umarani v/s. Registrar, Co-op. Societies & ors. (2004) 7SCC 112 wherein the 3 Judge Constitutional Bench of Hon'ble Apex Court has examined number of earlier judgments and on the point of regularization of service observed that—

“When appointments were made in contravention of mandatory provisions of the Act and statutory rules framed there under and in ignorance of essential qualifications the same would be illegal and cannot be regularized by the State.”

12. The Ld. Advocate for first party also resorted to few more Apex Court rulings; they are

- (1) Secretary, State of Karnataka & ors. v/s. Umadevi & ors. (2006) 4 SCC 1
- (2) State of U.P. v/s. Neeraj Awasthi & ors. (2006) 1 SCC 667.
- (3) Surinder Prasad Tiwari v/s. UP Rajya Krishi Utpadhan Mandi Parishad (2006) 7 SCC 684.
- (4) Surendra Nagar Dist. Panchayat & anr. v/s. Gangabai Laljiben & ors. (2006) 9 SCC 132.

(5) Indian Drugs & Pharmaceuticals Ltd. v/s. workmen Indian Drugs & Pharmaceuticals Ltd. (2007) 1 SCC 408.

(6) State of U.P. & ors v/s. Deshraj (2007) SCC 257,

(7) Mohd. Ashif v/s. State of Bihar (2010) 5 SCC 475.

(8) U.P. State Brassware Corpn. Ltd. & Anr v/s. Uday Narain Pande (2006) 1 SCC 479.

In all these judgments the Hon'ble Apex Court held that workmen not recruited in terms of provisions of Recruitment Rules framed as per the directions of concerned authority cannot be regularized or absorbed as a permanent worker.

13. In the case at hand, the fact is not disputed that the worker under Reference was not recruited after following the procedure established there for. Even no appointment order was given to him. He was called casually for some casual work as a substitute in the leave period of some employees. In the light of the ratio laid down by Hon'ble Apex Court consistently in all the above judgments conclusion can be arrived at that, neither the workman is employee of the first party nor there exist employee-employer relationship between them. There is also absolutely no evidence to show that second party workman had worked continuously for 240 days in each calendar year as has been claimed. Furthermore I would like to point out that in the light of the ratio laid down in the above referred Hon'ble Apex Court rulings, it is totally irrelevant whether the worker has worked for 240 days or more continuously as he was not recruited or appointed as per the Recruitment Rules. In this backdrop conclusion can be arrived at that, the workman is not entitled to be regularized. Accordingly I decide these issues Nos. 1 & 2 in the negative.

14. In respect of the alleged illegal termination of service, I would like to point out that neither the second party workman was appointed as employee of the Bank nor any termination letter was issued to him. On the other hand from the facts and circumstances on record it appears that he was a casual worker called in the leave vacancy or to do some casual work for fixed amount. Therefore, it cannot be said that the first party has illegally terminated the services of the second party workman. Accordingly, I decide this Issue No.3 in the affirmative. Consequently, I also hold that the second party workman is not entitled to be reinstated. Accordingly, this Issue No.4 is decided in the negative. Thus I proceed to pass the following order :—

ORDER

The Reference stands rejected with no order as to costs.

Date: 21-2-2011

K. B. KATAKE, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1320.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटी ऑफ 14246/2004, आई टी सी नं. 308 ऑफ 2009 ओल्ड) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-12012/68/2004-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S.O. 1320.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT of 14246/2004, (ITC No. 308 of 2009 Old) of the Central Government Industrial Tribunal/Labour Court Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workmen, which was received by the Central Government on 19-4-2011.

[No. L-12012/68/2004-IR(B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : BINAY KUMAR SINHA, Presiding Officer

CGIT-cum-Labour Court,
Ahmedabad, Dated 04-04-2011

Reference: ITC No. 308 of 2009 Old

Reference: CGITA of 1424 of 2004 New

The Regional Manager,
Bank of India,
Zohal Office,
Para Bazaar, M.G Road, Rajkot.

.....First Party
(Employer)

And their Workman

Shri Harshad N. Dave,
8, Ramnagar, B/h. Banjan Kripa,
Gondal Road,
Rajkot-4

.....Second Party

For the first party : Shri D.R. Chaudhari Advocate,

For the second party : Workman Himself

AWARD

The appropriate Government/Government of India, Ministry of Labour & Employment/Shram Mantralya Vide its order No.L-12012/68/2004 (IR) (B-II)) dated 23-06-2004 in exercise of power conferred by Clause (d) sub-section 1 of sub-section 2 (A) sub-section 10 of the ID Act, 1947, referred the dispute for adjudication under terms of reference as per schedule as follows.

SCHEDULE

“Whether the action of the management of Bank of India Rajkot in awarding punishment of removal from service with superannuation benefits to Mr. H. N. Dave is legal and justified? If not, what relief the concern workman is entitled to?”

2. The second party workman for contesting this reference submitted his statement of claim at Ext. 9 pleading therein that he was senior employee of the management of Bank working with honesty and sincerity and appraisal letter was also given to him by the management of Bank and that other employees went on a strike, on one occasion but he reported for his duty in the Bank. It has further been pleaded that he has been charge sheeted by the disciplinary authority on flimsy grounds and that the customers had deposited less money for which the customers were asked to pay the amount of less money tender for deposit and there was only some discussion and that he had not committed any such behaviour which was detrimental to the Banks policy and norms for attracting towards his misconduct. Further case is that the inquiry officer has submitted a perverse inquiry report in order to appease management for taking action against him, no cogent evidence were produced before the inquiry proceedings for prove of charges leveled against him. Disciplinary authority has taken very harsh view in awarding punishment. Due to awarding of punishment of removal he suffered economic death. After, removal from service he could not get any job for maintaining her family. On these grounds prayer is made for setting aside order of his removal imposed against him by the disciplinary authority and he be reinstated to the service with continuity in service, with full back wages, by allowing Reference in favour of the workman and for other reliefs to which he is found entitled.

* 3. For making contest in this case, the first party (Management of Bank) appointed a lawyer to represented them in the case and also filed written statement pleading inter-alia that the reference is not legal, proper and tenable and workman has no any legal right against management Bank. There is no breach of legal rights and that the Reference is not maintainable. The first party have denied allegation made in the statement of claim by the workman. It has been denied that the service record of the workman was good with Bank and so, he was entitled to work in the Bank till the year 2013 (till a period of superannuation). The

claim of the workman is unfounded that he did not go on a strike because the management of Bank cannot force any workman to go on strike nor it can prevent any staff from resorting to strike, rather its employee own decision whether to participate in any strike or not and if, second party workman did not participate in any strike that was his own decision, and such act cannot be regarded outstanding or meritorious. The case of the first party is that the memos calling for explanation and the charge sheet were all issued to the workman to give him, an opportunity to reply allegation appearing against him, and those memos and chargesheet are not false and fabricated as alleged by the workman vide memorandum dated 11-04-2003, workman attendance to submit explanation in writing in reply to chargesheet and all chances were given to the workman to defend himself and the principle of natural justice were followed. The report of the inquiry officer is not perverse, rather is based on the reasoning and on the basis of the materials and evidence produced before the inquiry officer, during the course of the domestic inquiry. Equal opportunity was also granted to the workman to defend himself and the statement of defense witness was duly recorded. Further case is that the punishment imposed upon the charge sheeted workman is in tune with charges leveled and proved against him and also in accordance with the provisions of bipartite settlement. It has been denied past record of the charge sheeted workman was good, rather several warning letters were issued to him to mend himself and be of good behavior, while discharging duty in the Bank and dealing with customers. Further case is that second show cause notice was issued and served and the workman was given opportunity for personal hearing. The authority issuing chargesheet and who passed the punishment order are the same i.e. disciplinary authority which is as per provision of bipartite settlement vide clause 14. Further case is that punishment awarded to the delinquent workman is according to the gravity of the proved misconduct and the punishment order of removal cannot be regarded as economical death of his family. Inasmuch as at the request of the workman himself the Bank has settled his terminal dues and sum of Rs. 9,80,656.68 was paid to him on 3-9-2003. The punishment awarded to the workman was due to prove of his serious misconduct under the charges, and punishment, so, awarded is not against the provision of bipartite settlement. Further case is that after, receiving the punishment order, the workman submit a letter dated 30-07-2003 mentioning therein that he accept verdict of the Bank and has nothing to say to appellate authority nor he wish to challenged verdict in the court of law. Further case is that though the workman served the Bank for 30 years but it is denied his served with honesty and sincerity rather, his record was not good during the service, since there were allegation against him for not attending his duty at Khodapipar Branch and while he was posted at Atkot Branch, there were complaint against him of misbehaving with the customers as well as staff. On these

grounds prayer is made to reject the Reference with special cost to the first party.

4. For the first party Bank by filing an application praying for permission for production of documents (Ext. 10) filed as many as 30 documents as per list (Ext. 11) and were marked Exts. 19 to 48. Those documents marked exhibits have been filed to prove validity and propriety of the domestic inquiry and to prove that the natural justice was followed in holding domestic inquiry against the delinquent workman and that delinquent workman was given opportunity to defend himself and the inquiry officer on conclusion of the domestic inquiry, submitted his reasoned and detail inquiry report to the disciplinary authority, some documents have also been filed to show past misbehaviour of the delinquent workman.

5. The second party workman by filing an application Ext. 12 challenged legality of the departmental inquiry holding against him. Thereafter, he submitted his affidavit examination in chief at Ext. 13 dated 01-09-2007 deposing that he joined Bank of India on 10-08-1973 as a leave reserve cashier on the pay scale of Rs. 350 per month. Thereafter he was promoted as cashier in charge at sardhar/branch in C category and that his last drawn salary was Rs. 17057.87 and that he completed 30 years of unblemished and continuous service. He also made such contention in his affidavit that the first party Bank has issued a vague charge sheet against him, and the charges leveled against him all baseless and without any evidence and that the findings of the inquiry officer his services is not based on the evidence and that finding of the enquiry officer is perverse, and that inquiry officer has given the findings as per the Bank management's instruction and not on the evidences and that inquiry officer has not considered the evidence and without evidence inquiry officer has declared the charges leveled against him, as proved. Further affidavit is to the effect that he was removal from service on 27-07-2003 from Kasturbadham branch. After removal from the service, he was jobless and tried to get the job but due to overage he is not getting any job. The second party workman was cross-examined by Shri D.R. Chaudhari Advocate, for the first party, on his affidavit. During cross-examination the second party workman has admitted that the inquiry was completed before him and he was present to all witness and he had not challenged the legality and propriety of the domestic inquiry, he only challenging to the findings of the inquiry officers. The second party workman filed closing pursis at Ext. 14 on the date of his cross-examination on 11-9-1997. On the same date first party also filed closing pursis at Ext. 15 stating that at the stage of perverse inquiry officer's report the first party has not to lead oral evidence.

6. In view of the pleadings of the parties and also in view of the evidence of the second party where he admitted during cross-examination that only he is challenging the

perversity of the inquiry report, following issues are taken up for consideration and determination :

ISSUES

- (I) Whether the reference is maintainable?
- (II) Whether the report of the inquiry officer (Ext. 33) is perverse?
- (III) Whether the punishment order (Ext. 37) awarded by the disciplinary authority against Shri H.N. Dave delinquent workman is shockingly disproportionate to the gravity of the misconduct and the charges levelled?
- (IV) Whether the action of the management of Bank (first party) in awarding punishment of removal from the service with superannuation benefits to Mr. H. N. Dave is legal and justified?
- (V) Whether the second party workman is entitled for his reinstatement with consequential benefits?
- (VI) What relief if any, the second party workman is entitled?

7. FINDINGS

ISSUE NO. II

The first party Bank has relied upon the documentary evidences adduced in this case. Ext. 9 is written statement with affidavit of Shri T. Sekhar, Assistant General Manager of Bank of India, Ext. 19 is the Memorandum issued by disciplinary authority to Shri H.N. Dave workman, Ext. 20 is charge sheet issued by the disciplinary Authority to the delinquent workman, Ext. 21, 22, 29, 32 are the inquiry proceeding daily order sheets No. 1, 2, 3 & 4 respectively. Ex. 23, 24, 25, 26, 27, 28, 30, 31 are the evidence sheets in the departmental inquiry of the witness. From going through Ext. 20 the charge sheet issued against delinquent workman, this is evident that 3 charges were levelled against him by the disciplinary authority Shri D.V. Patil, General Manager (CS & HR) and disciplinary authority. First charge is in two parts (a) That when work relating to data entry of the branch was in progress, you were advised on 21-02-2002 by the Manager not to interfere in such work, at this you abused the manager by uttering the words "You are Hoodlum" (b) On 11-10-2002, you came late to the branch i.e. after 11.00 am, without any prior intimation/permission to /from the manager and unauthorisedly marked time as 10.45 in the attendance register to create a false record of your having come on time on that day, since you did not attend your duty on time, the counter clerk with a view to avoid customer dissatisfaction had started accepting withdrawal slips by putting token numbers on their reverse. At this, instead of remaining apologetic for your acts of coming late and causing undue harassment to the customers, you

have argued with the manager by stating that how the clerk could issue/write the token number on the reverse of the withdrawals when cash and tokens were yet not taken out from the safe and warned the manager by saying "you please note for future". Your above acts, if proved would amount to gross misconduct in terms of Clause 5 "c" of the Memorandum of Settlement dated 10-04-2002. Charge No. 2 is in four parts that your conduct as cashier in charge of the branch is replete with complaints from several customers indicating the questionable manner of your dealings as cashier and results in tarnishing of bank's image inasmuch as in category A, B, C, D happening and misbehaviour of the delinquent workman Mr. Dave with different customers have been described showing customer Babu Bachi Khunt, that you paid less by Rs. 10 (B) After accepting as sum of Rs. 28,040 from customer Jadhav Madha and also issuing counterfoil to him and then, after, some time, calling said customer showing that he deposited Rs. 50 less, and picked up quarrel with him (customer) and collected cash Rs. 50 from him. (C) With another customer Lavabhai H. Sorathia, handed over Rs. 22800 to you on 27-03-2002 for depositing in his Savings Ale and after accepting the cash you falsely told him that it is sort by Rs. 100 and took away from him Rs. 100 to the dissatisfaction of the customer- borrower. And (D) Customer Ramesh H. Sorathia gave you Rs. 20,970 on 27-03-2002 for depositing in his S/B A/c and after accepting the cash you advised him that the cash was sort by Rs. 5000. At this customer Sorathia took back the cash from you and counted in front of you. While so counting, he found the cash to be exactly Rs. 20,970 and the said customer Sorathia has lodged a complaint with the Bank stating that had he believed your version, he would have been poorer by Rs. 5000. And that your above acts, if proved would amount to gross misconduct in terms of clause 5 "J" of the Memorandum of settlement dated 10-04-2002. Chargeno. 3 against delinquent is regarding careless and irresponsible act while discharging his day to day duties pointing out to his carelessness, describing at A, B, C, in details regarding cuttings/overwriting and making entries in different languages via. Gujarati, English, Hindi and Roman and also not incorporating full details in the dispatch register of the branch, also making cutting/corrections/over-writtings at several places. And also making such cuttings/over-writtings/corrections in other books of the branch like Receipt/Payment/Transfer book and cash Contra Books, causing difficulty in identifying the entries as to which segment a particular entry pertain viz. SB/CD/CC etc. Also incorporated when the Manager. counsels you and advises to refrain from repeating such acts, you reply in a most irresponsible manner by stating that after 50 years of age, your working style is this and Bank has not suffered any financial loss on account of such acts of yours. Also mentioning in the charge sheet that the above acts, if proved, would amount to gross misconduct in terms of Clause 5 "j" of the Memorandum of Settlement dated 10-4-2002. From going through the chargesheet levelled

against delinquent workman those are undoubtedly vividly described and narrated and there is no any vagueness as claimed by the delinquent workman through statement of. claim: There is no merit in affidavited statement made by the second party workman in his affidavit Ext. 13 that the first party Bank has issued vague chargesheet against him. Though the workman through affidavit has also stated that the chargesheet levelled against him is baseless and without any evidence and the findings of inquiry officer is not based on the evidence and so, findings of the inquiry officer is perverse. But the delinquent workman has admitted during cross-examination by the first party that inquiry proceedings all along completed in presence of him and that he was present all along during the evidence of all witness and he has not challenged any time as to the impartiality of inquiry officer regarding, holding of departmental inquiry. He stated that he only challenging to the findings of E.O.

8. In the daily order sheet of the inquiry proceedings there is also signature of the delinquent workman with signature of presenting officer and inquiry officer. In the statement of the witnesses examined before the inquiry officer and cross-examination by the chargesheeted employee Mr. Dave, there is also signature of the delinquent along with signature of the witness, presenting officer, and inquiry officer. Now, coming to Ext. 33 report of the inquiry officer Shri R. K. Mangal inquiry report is in 8 pages dated 02-06-2003. From going through entire inquiry reports it appears that the inquiry officer, described evidence of the management witness M.W.-No. 1 to 7 and the CSEW (charge sheet employee's witness) No. 1 B.K. Popat and also, about the documentary evidence of the management marked is M.E. 1 TO M.E. 15, also find that the inquiry officer had scrutinize the evidence of the management and also defense case and evidence charge wise levelled against delinquent workman and detailed discussion have been made. Inquiry officer had given a details reasoning and has given findings on the each charges levelled against delinquent workman and after considering the evidence and materials presented, during the departmental inquiry held all charges proved against the delinquent. It has been argued by Shri B. R. Chaudhary Advocate for the first party that in the catena of decision of the different High Courts and also of the Hon'ble Apex Court it has been held that departmental proceeding is quite different to criminal trial. The standard of proof require is that of preponderance of probabilities and not prove beyond reasonable doubt. In this connection reliance has been placed upon 2004 (03) GLH 708.

9. On examining the report of the Inquiry officer Ext. 33, I don't find that report of inquiry officer can be said to be perverted from any angle. The second party workman could not have been able to substantiate his evidence through affidavit and cross-examination that the inquiry report submitted by inquiry officer at Ext. 33 is perverse and not based the evidence, oral and documentary

produced before the inquiry officer during the departmental inquiry. More so, the delinquent workman has not challenged the propriety of the enquiry proceeding. When the disciplinary authority issued second show cause notice on punishment vide Ext. 34 to the delinquent workman H.N. Dave, rather the delinquent workman vide Ext. 35 Write a letter addressing to the General Manager (disciplinary authority) making request for waving punishment proposed under charges 1 and 2 (prove) on grounds for heaven sake. In this letter Ext. 35 no where challenging the findings of inquiry officer. Ext. 36 is minutes of the personal hearing given to H.N. Dave (second party) no where in the minutes of the personal hearing, it has been incorporated that the delinquent workman ever challenged perversity of the inquiry report Ext. 33.

10. From examining the materials on the record I find that there is no merit in such claim of the second party workman that the findings given in the inquiry report by the inquiry officer is without appreciation of evidence and is perverse rather, I found that the findings given by the inquiry officer is based on the preponderance of the probabilities supported with sufficient oral and documentary evidence produced before him by the management. So, this issue is decided in negative and held that the report and findings of the inquiry officer is not perverse rather is based on preponderance of probabilities.

11. ISSUE NO. III

Form the perusal of material on the record appeared that on the basis of charges, full flagged inquiry was conducted and charges held prove against the workman during the course of departmental inquiry which are supported with sufficient evidence (both oral and documentary) taken on record after giving due opportunity to the workman to test the testimony, of as many as 7 witness examined and 15 documents produced on side of the management to prove of charges. On the other hand the workman produced only one witness in his defense who has stated that he did not hear uttering words (Hoodlum) by the workman, but he never deposed that workman did not utter. On the basis of the findings of the inquiry officer in his report Ext. 33, on the basis of second show cause notice issued Ext. 34 and on personal hearing, as per minutes Ext. 36 and the letter of the delinquent Ext. 35, the punishment order Ext. 37 was awarded against the delinquent through which after considering all aspects, the disciplinary authority has awarded consolidated order of removal from the service with superannuation benefits i.e. pension/order provident fund and gratuity as kept dues under the particular rules and regulations and without disqualification for future employment which in terms of Clause (c) of the memorandum of settlement dated 10-04-2002. The copy of the punishment order was received by the delinquent mentioning received under protest on 26-07-2003. Though protest was made to the punishment

order, but subsequently on 30-07-2003 delinquent workman wrote a letter addressing to the Manager, Bank of India Kasturbadham vide Ext. 38. making request for payment of P.F. both self and Bank contribution, No.2 request for payment of gratuity and request for payment of other benefits also clearly mentioning that he accepts the verdict of the Bank, the punishment order Ext. 37 and he has not to go to appellate authority nor he wish to challenge verdict in the Court of law. These also go to show that the second party workman was quite aware for filing of appeal before the appellate authority challenging the punishment order but he decided not to file appeal and instead demanded payment of his dues while accepting punishment order. So, the second party workman cannot take any ground that no opportunity of filing appeal before the appellate authority was given to him. More so, the workman H.N. Dave have received all his entitlement amount to Rs. 98,06,65.68 on 03-09-2003 from the Bank towards the settlement of his terminal dues, in view of his request letter Ext. 38.

12. More so, from perusing documentary evidence at Ext. 39 to 46, it appears that there is reporting as to the past misconduct of the second party workman in Khodapipar branch and at Atkot Branch, it also go to show that there were several report in the past against second party workman asking to mend himself and being a senior staff in branches expected to behave with customers in peaceful and cool manner etc. But in spite of that second party workman could not mend himself resulting in issuing charge sheet as per Ext. 20. on allegation of grave misconduct as details therein, Ext 47 is an order issued by the Chairman and Managing Director Bank of India, Mumbai appointing a disciplinary and appellate authority in response of workman working in Bank of India office, that go to support the case of the first party that the chargesheet was issued by the disciplinary authority Chief Manager and the punishment was also awarded by the disciplinary authority, Chief Manager appointed as per order Ext. 47. Ext. 48 is the copy of the disciplinary action and procedure under bipartite settlement. and clause (5) described the details of gross misconducts committed by staff of the Bank and clause (6) described as to the mode of punishment, clause 6 (b) deals with removal of the employee from service with superannuation benefits i.e. pension/provident fund and gratuity as kept dues otherwise. Disciplinary authority vide Ext. 37 finding misconducts on part of the delinquent workman taking into consideration, the consolidated misconduct at different stages mentioning in the chargesheet awarded punishment under clause 6 (b) the punishment order clearly go to show that there was no economic death of the delinquent workman, rather as per his own request the lumpsum amount of Rs. 9,80,656 was provided to the delinquent towards his superannuation benefits, pension provident fund and gratuity and other dues without dis-qualification from future employment. In

this record the delinquent workman in his evidence through affidavit Ext. 13 has admitted that he has become overage he was not getting any job. That does not amount to his economical death.

13. On the other hands Ext. 72 the appointment letter of workman, Ext. 73 last pay certificate, Ext. 74 letter of appraisal of Bank to workman that he did not go on strikes and attended duty, Ext. 75 some sort of suggestion given by him to Bank, Ext. 76 letter of workman to Bank, Ext. 77 minutes of Bank annual meeting discussing on suggestion of workmen and 78 some paper cuttings do not go to attract that delinquent workman was sincere and that can discard the charges, Ext. 20 and the proved guilt Ext. 33 and punishment Ext. 37

14. After examining the materials on the record and also considering the submissions on behalf of first party and the workman himself during his argument, I am of the considered view that the punishment awarded to the second party workman is not shockingly disproportionate to the gravity of his proved misconduct under the charges Ext. 20. So, this tribunal does not find any ground to interfere with the punishment order awarded against the second party workman invoking the provision of section 11-A of the I. D. Act 1947. This issue is accordingly decided against second party and in favour of first party Bank.

15. ISSUE NO. IV

As per findings given in the foregoing paragraph I find and hold, that the action of the management of Bank, Rajkot in awarding punishment of removal from the services with superannuation benefits to Mr. H.N.Dave is legal and justified.

16. ISSUE NO. V

For the reasons incorporated in the findings to issue No.2, 3, 4 it is further held that the second party workman Mr. H.N.Dave is not entitled for his reinstatement with any consequential benefit. Accordingly this issue is decided against second party.

17. ISSUE NO. VI

As per findings given in the foregoing paragraph I find and hold that this Reference is not maintainable rather is fit to be rejected and that the second party workman Mr. H. N. Dave is not entitled to get any relief.

In view of the findings above the following award is passed that the action of the management of Bank of India, Rajkot, in awarding punishment of removal from service with superannuation benefits to Mr. H.N. Dave (second party workman) is legal and justified and the second party workman is not entitled to any relief. So, this reference is rejected.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1321.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 289/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-12012/106/2004-आईआर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S.O. 1321.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 289/2004) of the Central Government Industrial Tribunal-cum-Labour Court No.1, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Punjab and Sind Bank and their workmen, received by the Central Government on 19-4-2011.

[No. L-12012/106/2004-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case I. D. No. 289/2004

Shri Yashwant Rao Behamni, 14-E Professor Colony,
Yamunanagar (Haryana).

....Applicant

Versus

The Zonal Manager, Punjab & Sind Bank, Zonal Office,
Baghu Road, Bhatinda (Punjab)

...Respondent

APPEARANCES:

For the Workman : Shri Sandeep Bhardwaj.

For the Management: Shri J.S. Sathi.

AWARD

(Passed on 10-3-2011)

Governments of India, Ministry of Labour and
Employment vide notification No. L-12012/106/2004 -IR(B-II)) dated 3-9-2004, by exercising its powers under Section

10(1D) of the Industrial Disputes Act 1947 (the Act ensured) referred the following industrial dispute for adjudication.

“Whether the action of the management of Punjab and Sind Bank inflicting the punishment of removal from service on Shri Yashwant Rao Behamni, Ex. Clerk-cum-Cashier w.e.f. 29-3-2000 is just and legal? If not what relief the concerned workman is entitled to and from which date?”

After receiving reference, parties were informed. Parties appeared and filed their respective pleadings.

The workman was removed from the service of the bank after holding a departmental inquiry. Workman has challenged the inquiry and the decision making of the Inquiry Officer and the Disciplinary Authority. On perusal of the pleadings of workman, the grounds on which the decision making and the fairness of inquiry has been challenged by the workman in nutshell are that findings of the Inquiry Officer are perverse, he had not afforded the proper opportunity of being heard, punishment is very much excessive and the Inquiry Officer has wrongly relied upon his admission.

The management appeared and opposed the claim of the workman. It is contended that a proper departmental inquiry was conducted against the workman. The workman after his transfer to another branch continues to collect the premiums of certain outstanding loans and did not bother to deposit the same in the bank till the auditor raised the objection. Thereafter, workman deposited the amount and also apologized for his conduct. Thereafter, after seeking the explanation of the workman a departmental inquiry was conducted in which he was found guilty and punishment of removal from service was awarded.

The workman raised an industrial dispute and on failure of conciliation proceedings, this reference.

Initially the parties were heard on the issue of fairness of inquiry. Detailed order was passed by this Tribunal on 7-7-2010 on the issue of fairness of inquiry. On perusal of order dated 7-7-2010, it is evidently clear that inquiry has been held to be fair and proper, and in accordance with the principle of natural justice by this Tribunal. Both of the parties were afforded to adduce evidence on decision making and on perversity in decision making of inquiry officer and disciplinary authority, if any, and on quantum of punishment.

The evidence of the workman Sh. Yashwant Rao Behamni was recorded on oath in open Court. Learned counsel for the management Sh. J.S. Sathi declines to adduce any oral evidence. Accordingly, parties were heard at length and file was reserved for award. There is limited issue left for adjudication before this Tribunal. The issue is whether workman is able to prove any perversity in decision making

on part of the Inquiry Officer and disciplinary authority, and whether the punishments awarded to the workman is proportionate to commit misconduct? The workman had challenged the inquiry report on the ground of perversity that Inquiry Officer has wrongly acted and believed the admission of workman. He has admitted and deposited the amount under threat and there has been no substantial delay in depositing the amount. The workman has further challenged the action of disciplinary authority on the ground that disciplinary authority acted without affording the opportunity of personal hearing to the workman.

The issue of personal hearing had been adjudicated by this Tribunal vide order dated 7-7-2010. In compliance of the order passed by the Hon'ble High Court of Punjab and Haryana, disciplinary authority afforded the opportunity of being heard to the workman afresh and after proper hearing punishment was awarded. The workman has admitted in the letter dated 9-12-1996 (W3), that he made recovery of the amount mentioned in charge-sheet. He could not deposit the same. He will deposit the amount at the earliest and sent the receipt to the disciplinary authority. In his letter he has also apologized for his conduct and behaviour.

The workman was charge-sheeted for making recovery of several amounts from different persons in 10 transactions and no amount was deposited by the workman. On perusal of the material on record, it is evidently clear that this misappropriation of amount came into the notice of the bank during the audit. After the audit objections, explanation was called for and the workman agreed to deposit the amount.

For misappropriation of funds, guilty intention is the prime consideration. Guilty intention of the workman is reflected from his conduct of depositing the amount only after the audit objections. The workman has made recovery of approx. Rs. 30,000 from 10 different persons and had not deposited the same in the bank's exchequer. On perusal of the material on record, this act of the workman seems to be intentional. Moreover, he is an educated person and judicial notice can be taken of it that he knows the consequences of long detaining the amount with him. Knowing the consequences, he has not made any effort for deposition of amount in the bank's exchequer recovered from different persons. Thus, there is no perversity on the part of the Inquiry Officer in relying upon the admission of workman along with other evidence while giving his findings. The disciplinary authority has rightly awarded the punishment of removal from service which in my view is proportionate to commit misconduct. This Tribunal cannot act as the Court of appeal. It can only hear the parties on the quantum of punishment under exceptional circumstances. No such exceptional circumstances are before the Tribunal in this case. Moreover, respondent is a financial institution. Smooth functioning of financial

institution cannot be imagined without the integrity, dignity and discipline of the employees who are the component of this financial institution.

Accordingly, the disciplinary authority has rightly shown the workman way out from the bank and there is no reason for this Tribunal to interfere in the punishment awarded by the disciplinary authority.

Accordingly, this reference is answered against the workman. Let Central Government be approached for publication of Award, and thereafter, file be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1322.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 67/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-12012/76/2009-आईआर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S.O. 1322.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2009) of the Central Government Industrial Tribunal/Labour Court No.1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab and Sind Bank and their workman, which was received by the Central Government on 19-4-2011.

[No. L-12012/76/2009-IR (B-II)]
RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL- CUM- LABOUR
COURT-1, CHANDIGARH**

Case I. D No. 67/2009

She Bakhtawar Singh C/o Sh. R.K. Singh, Parmar, 211-L,
Brari, P.O.- Partap Nagar, Nangal Dam, Distt. Ropar

...Applicant

Versus

The Zonal Manager, Punjab & Sind Bank, Zonal Office,
Modal Town, Jalandhar (Punjab)

... Respondent

APPEARANCES

For the Workman : Shri. R. K. Singh

For the Management : Shri. J. S. Sathi.

AWARD

Passed on : 21-3-11

Government of India vide Notification No. L-12012/76/2009-IR(B-II)) dated 28-1-2010 referred the following industrial dispute to this Tribunal for adjudication.

“Whether the action of the management of Punjab and Sind Bank in not allowing Sh. Bakhtawar Singh to join the duties w.e.f. 31-8-2007 is just, legal? What relief the concerned workman is entitled to and from which date?”

The claim of the workman in nutshell is that initially he joined the bank on 2-2-1989 as driver and was paid fixed salary every month. He worked as such up to 12-13/11-2005 without interruption. That on 13-11-2005, while working in the store, a big heavy trunk fell at his right leg and he sustained serious injuries. His leg was fractured. He became unconscious and was taken to the residence and thereafter admitted to hospital. He remained admitted in the private hospital at Patiala and the Government hospital Patiala. He was declared fit to resume duty on 15-7-2006 and accordingly, join the bank once again as a driver. He worked up to 31-8-2007 after-noon. Due to the injury sustained while working in the bank he had to undergo treatment after 31-8-2007. He made number of attempts to join the duty but he was not allowed. Juniors to him have been regularized in service. The work of the driver is being taken from security guard which shows that work of the driver is still available. On the basis of above contentions, the workman has prayed for setting aside the termination order and for consequential order re-instating him into the service with all the benefits.

The workman has filed affidavit and as many as 10 documents which are marked as Ex. W2 to W10 in support of his claim. At the time of recording evidence, the workman also filed five documents which were marked as Ex. W13 to W17.

The management appeared and opposed the claim of workman by filing written statement. Preliminary technical objections were raised that the workman was not initially lawfully appointed. He suffered injuries not in the bank but on some other place and after sustaining the injuries he did not turn up to the bank and has voluntarily abandoned his services. It is contended in his written statement that contention of the workman that he worked with the bank from 15-7-2006 to 31-8-2007 shows his claim ended on 31-8-2007 not by virtue of termination but by virtue of his abandoned the job. It is also contended that workman has not filed any petition for compensation in Workman Compensation Act which also shows that he

has not, sustained injuries while working in the bank. It is stated that workman has worked as a personal driver of the bank officers which is allowed by circular of the bank, enclosed with the written statement.

The management has just filed part of the circular letter No. 2278 dated 13-9-2002, which allows a certain category of the executives of the bank to appoint a personal driver and the salary of such personal driver, shall be reimbursed by the bank. No documents relating to the service of the workman were filed.

There is no specific denial of the management that workman has not worked in the bank as driver during the period claimed by him in statement of claim. It is only contended by the management that he has worked as a personal driver of any executive of the bank. It is denied that workman has sustained any injury while working in the bank. The circumstances are very much clear from the statement of Sh. Brij Mohan Kohra, the witness of management. Sh. Kohra has shown his ignorance about the place and manner the workman has sustained injuries. It is admitted by him that he has personal knowledge the workman sustained injuries for which he was hospitalized and treated. He has also admitted that all the officers and employees of the bank collected some amount for financial help to the workman in his treatment. But he has no personal knowledge how the workman sustained the injuries. Moreover, he has not denied the fact that workman sustained the injuries while working in the bank. Meaning thereby, this witness Sh. Brij Mohan Kohra is withholding the fact of sustaining the injuries while working in the bank. The fact that workman failed to file any petition for compensation under the Workman Compensation Act will not effect this issue because this Tribunal has to consider the socio-economic condition of the workman and the disparity in socio-economic condition of the workman and the management. If any person due to the socio-economic condition and ignorance of law could not file the petition for redressal of his grievances, it cannot be taken as the conclusive proof against him. As stated earlier, the witness of the management has admitted that the workman sustained injuries and regarding his treatment, he has not denied that injuries were sustained in the bank. He has shown his ignorance. Accordingly, after considering the facts and circumstances of the case and entire materials on record, I am of the view that workman sustained injuries while working in the bank and his absence due to the treatment for sustained injuries shall not be taken adversely.

While calculating the period for which the workman has worked, this period of treatment shall be treated as on duty. Surprisingly, after recovering, workman was allowed to serve as a driver. And one fine morning again he was asked not to report for duties without notice or without payment of one month wages in lieu of notice and without payment of retrenchment compensation.

The management has filed a copy of circular letter which permits certain executives of the bank to engage the personal drivers. I am unable to understand how this circular letter proves this fact that workman was working as a personal driver of any executive. Not a single word has been uttered by the witness of the management regarding his status as a personal driver. Likewise, no question in cross-examination was asked to the workman by learned counsel for the management. On the other hand, Ex. W3 to W11 makes it clear that workman was appointed as driver on the consolidated monthly salary. These documents also confirm that his case was forward by the branch in which he was working to the Head Office for regularization of services. Ex. W13 to W17 also makes it clear that on the letter issued by the bank the antecedents of workman were verified by the police authorities for his regularization into the services. The workman has worked almost 18 years on consolidated salary in the bank as a driver and one fine morning he was arbitrarily kicked out from the service and was not allowed to work. If for a substantial period (few months) workman could not work, it was due to the injuries sustained while working in the bank. Thus, this period as stated earlier, cannot be taken adversely.

It is the case where the judicial conscious of this Tribunal is eager to write about the work and conduct of an employer. The workman continuously for more than 19 years devoted his precious period of life to the bank and when he became over aged and was unable to get job somewhere else, he was arbitrarily kicked out from the bank. Bank is a Public Undertaking and an enterprise of Central Government which is supposed to be a model employer but the act of the management treating the workman undermining his human dignity makes a big question mark on the bank as a model employer.

There is no dispute that the workman has completed 240 days of work in the preceding year from the date of his termination. The workman has filed photocopies of all the documents as mentioned above. Original documents are lying in the custody of the bank. Irrespective of summoning the documents, the bank failed to provide the original copy of the documents. Moreover, the bank has not challenged the genuineness of the documents filed by the workman. Accordingly, all the documents filed by the workman shall be relied upon and adverse inference shall be taken against the bank for its failure to provide the original documents relating to the services of the workman.

As stated earlier, workman has completed 240 days of work in every calendar year. He has worked with the bank including the year prior to his date of termination. The witness of the management has admitted that no notice was given, no one month wages in lieu of notice were paid and no retrenchment compensation was paid to the

workman before terminating his services. This act of the management is arbitrary being against the provisions of the Act which leads the termination of the workman illegal and void ab initio.

Now the question arises how the grievances of the workman should be remedied? This Tribunal has come to the conclusion that termination of the workman from the service is void ab initio. There are two modes by which the grievances of the workman can be redressed. The first mode is re-instatement of the workman to the same position he was working prior to his termination and another is a reasonable compensation. It is the settled principle of service jurisprudence that priority should be given for re-instatement of workman on the same position he was working prior to his termination and in exceptional circumstances his grievances may be remedied by an amount of reasonable compensation. This case is of exceptional circumstance. The workman was regularly working with the management as a driver. He worked almost for nineteen years and devoted his most precious part of his life to the bank in its services as a driver. Apart from it, the letters which are part of the correspondence between the branch, workman was working and the Head Office it is clear that his case was also considered for the regularization of services and even his antecedents were verified by the police authorities on the request of the bank. I do not know what happened that the workman was thrown out from the bank arbitrarily. Under such circumstances, the only remedy lies in the re-instatement of the workman to the services with full back wages and continuity of service because work is still available with the management. The management is directed to reinstate the services of the workman with full backwages and consequential benefits within one month from the publication of award. If the back wages are paid within one month from the date of publication of award no interest need to be paid failing which the management will be under liability to pay the interest at the rate of 7 per cent per annum from the date of the accrual till final payment.

Generally, the Tribunal must restrained itself for passing any order on regularization of services. This Tribunal recognizes its authority and jurisdiction. But act of management to verify the antecedents of the workman for regularizing his services inspire this Tribunal to direct the management to consider the case of the workman for regularization as per the policy under which the antecedents of the workman were verified. By passing such direction this Tribunal has not exceeded its jurisdiction but is directing the management to recollect its old memories the workman was considered for regularization of services. I am hopeful that management will also consider the case within one month from the date of publication of award.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1323.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं.-2, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी-2/60 ऑफ 2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-12011/21/2010-आईआर (बी-2)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S.O. 1323.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref-CGIT-2/60 of 2010 of the Central Government Industrial Tribunal No.2, Mumbai as shown in the Annexure in the Industrial Dispute between the management of Union Bank of India, Bazargate Street Branch and their workman, received by the Central Government on 19-4-2011.

[No. L-12011/21/2010-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI**

PRESENT**K. B. KATAKE**

Presiding Officer

REFERENCE NO. CGIT-2/60 of 2010

**EMPLOYERS IN RELATION TO THE
MANAGEMENT OF**

UNION BANK OF INDIA

The Assistant General Manager
Union Bank of India
Bazargate Street Branch
266, Perin Nariman Street
Mumbai-400 001.

AND**THEIR WORKMEN.**

Shri Milind Raghunath Terse
2/I, Kawli Compound
N.M. Joshi Marg
Lower Parel
Mumbai 400013.

APPEARANCES:

FOR THE EMPLOYER : No appearance.

FOR THE WORKMEN : No appearance.

Mumbai, dated the 14th March 2011.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-12011/21/2010-IR (B-II), dated 17-9-2010 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of Union Bank of India, Field General Manager's Office, Mumbai in terminating the service of Shri Milind Raghunath Terse, Ex-Driver with effect from 1-4-2008 is legal, just and proper? If not, what relief the workman concerned is entitled to?”

2. After receipt of the reference, both the parties were served with notices vide Ex-5 & Ex-6. Second party workman appeared in person on 27-12-2010. The second party was supposed to file his statement of claim. Sufficient time was given. However he did not file the statement of claim. On the other hand since 14-02-2011, second party workman remained absent. Therefore the matter was kept today for order. As the second party workman failed to file his statement of claim, the reference deserves to be dismissed for want of prosecution. Thus I proceed to pass the following order:

ORDER

The reference stands dismissed for want of prosecution.

dated: 14-3-2011

K. B. KATAKE, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1324.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 84/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-12011/33/2004-आईआर (बी-2)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S.O. 1324.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. 84/2004 of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank and their workman, received by the Central Government on 19-4-2011.

[No. L-12011/33/2004-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD

Present : Shri VED PRAKASH GAUR, Presiding Officer

Dated the 23rd day of February, 2011

INDUSTRIAL DISPUTE No. 84/2004

BETWEEN:

The State Secretary,
 A. P. Working Committee,
 641, A1-Karim Trade Centre,
 Opp : Ranigunj Bus Stop,
 Secunderabad-3.

...Petitioner

AND

The Dy. General Manager,
 Syndicate Bank,
 Zonal Office, Pioneer House,
 6-3-653, Somajiguda,
 Hyderabad - 500 482

...Respondent

APPEARANCES:

For the Petitioner : M/s. M. Gowri Shankar &
 M. Ramu, Advocates

For the Respondent : M/s. Alluri Krishnam Raju,
 G Dinesh Kumar, G V.N. Babu,
 N. P. Rao, A. B. S. Reddy &
 N. V. Kumar, Advocates

AWARD

This industrial dispute has been registered on the basis of the reference received from the Government of India, Ministry of Labour by its order No. L-12011/33/2004-IR(B-II) dated 3-6-2004 under Section 10(1)(d) of the I. D. Act, 1947 to pass award in respect of dispute arisen between Sri P. Venkateswara Rao, Ex-Attender and employer Syndicate Bank. The term of reference is as under :

SCHEDULE

"Whether the action of the management of Syndicate Bank in dismissing the services of Sri P. Venkateswara Rao, ex-Attender is justified? If not, what relief the workman is entitled to?"

The reference is numbered in this Tribunal as I. D. No. 84/2004 and notices were issued to the parties.

2. On receiving the notice, the workman through his union has filed claim statement alleging therein that Sri P. Venkateswara Rao was appointed as an attender in bank in the year 1985. In between 1985 and 2002 he worked at Zonal Office of the Bank at Hyderabad, Currency Chest Hyderabad and at Gandhinagar Branch, Vijayawada. He was having unblemished career till 1999. During 1999 he was attacked by Jaundice for which he initially underwent treatment in allopathic system of medicine but he could not recover even after a long time treatment, then it turned

to Ayurvedic system of medicine and he recovered from the illness after 4 to 5 months of taking the ayurvedic medicine and he was found fit for duty. He joined his duty and submitted leave application along with medical certificates for his absence from 19th April, 1999 to 1st October, 1999 but, his absence was treated as unauthorized which was not informed to the workman despite his oral request made to the Manager of the Branch. The Petitioner was completely cured by October, 2000 and thereafter he worked regularly. During his illness he did not receive his salary, he was to incur medical expenses, these financial commitments could not be kept up and Petitioner was forced to default payment of the installment of the money he borrowed from private borrowers.

3. The Petitioner has alleged that during 1995-97 he borrowed a sum of Rs.19,000 from one Sri K. Sitaram Prasad, that Sri K. Sitaram Prasad filed a E.P. against the Petitioner for recovery of the loan amount in the year March, 1999. The Petitioner could not attend to the E.P. proceedings due to his illness and the proceeding was set ex-parte against the Petitioner. The Petitioner was arrested on the basis of the warrant issued by the Civil Court and he was detained in civil prison at Rajahmundry between 28-7-2000 and 26-8-2000. During this period also he remained absent from the duty.

4. It is alleged that charge sheet bearing No. CGS/HYD/2001/42, dated 16-8-2001 was issued to the Petitioner alleging therein that Petitioner has committed two minor misconducts of "Absence without leave and irregular attendance" and for gross misconduct of remaining absent continuously without intimation for a period exceeding 30 days and doing acts prejudicial to the interest of the Bank vide clauses 19.7(a), 19.7(b), 19.5(p) and 19.5(g) of Bipartite Settlement for which departmental enquiry was conducted by appointing Enquiry Officer who submitted his report dated 4-12-2001. Thereafter second Respondent has imposed the following punishments :

(A) "Warning" for each of the two minor misconducts.

(B) "Dismissal" from services of the bank with immediate effect for each of the two Gross Misconducts. The Petitioner preferred an appeal which was dismissed vide proceeding dated 28-5-2002.

5. The Syndicate Bank staff union raised a dispute with the Regional Labour Commissioner(C), Hyderabad for intervention and conciliation in the matter which resulted in failure and the matter was referred to the Government of India who has referred this dispute to this court.

6. It has been alleged by Petitioner that the punishment of dismissal from service is grossly disproportionate because the Petitioner was having sufficient number of Privileged Leave to his credit during the time of his absence which can be converted against his absence. The Petitioner was not informed about the

unauthorized absence during the period, he remained absent. The Petitioner was having 35 days privileged leave as on 22-12-1999, he absented between 16-11-1999 to 30-11-1999 for 15 days, 1-12-1999 to 2-12-1999 for two days, 6-12-1999 to 10-12-1999 for 5 days, 29-12-1999 to 31-12-1999 for 3 days. Thus, the total absence is for 25 days whereas he was having 35 days Privileged Leave to his credit, this could have been adjusted from the privileged leave, but no reasons have been cited for taking it as unauthorized absence. The action of management is illegal, arbitrary and unwarranted. The allegation of the management that Petitioner remained unauthorizedly absent for more than 30 days is missing in as much as the competent authority has not treated the absence from 10-5-1999 to 1-8-1999 as unauthorized. Similarly the absent of Petitioner from 19-4-1999 to 11-5-1999 was also treated as unauthorized absence. The Petitioner was not afforded opportunity to present his case. The Petitioner was not informed regarding warrant and letter received from the Court of Hon'ble Civil Judge, Vijayawada. Petitioner remained absent due to the attack of jaundice and that is why he could not attend to his duty, all these material facts were not considered by the punishing authority and thus, the punishment of dismissal from service is excessive, disproportionate, illegal and arbitrary and deserves to be quashed.

7. The Respondent management has filed counter statement alleging therein that Petitioner Sri P. Venkateswara Rao, attender was in habit of absenting from duty without proper sanction of leave. He remained absent unauthorizedly for a period of 276 days between 19-4-1999 to 18-10-2000. Out of this absence, he remained absent in excess of 30 days continuously on two occasions, from 19-4-1999 to 1-10-1999 for 166 days and from 16-9-2000 to 18-10-2000 without prior intimation. His absence caused lot of inconvenience in the smooth functioning of the branch as well as to the customers. It is further alleged that a non-bailable warrant was issued against the Petitioner workman with CC No. 233/98 and Petitioner workman remained absent from duty to avoid attendance in the court. The Petitioner workman was convicted in E.P. 462/1999, in OA No. 2157/1998 pending on the file of 1st Additional Civil Judge, Vijayawada and he was sentenced to one month's jail. Petitioner escaped from the custody of the court and criminal case was also filed against Petitioner for escaping from the legal custody of the court at Suryarao Pet Police Station, Vijayawada. Subsequently, he was arrested and sent to Civil Prison at Rajahmundry and he was ordered to be detained there for a period of one month. This act of the Petitioner constitute misconduct under provisions of bi-partite settlement. Therefore he was charged for his misconducts, (I) minor misconduct of absence without leave vide clause No.19.7(a), (II) minor misconduct of irregular attendance vide clause No.19.7(b), (III) gross misconduct of remaining absent continuously without intimation for period exceeding 30 days, vide Clause 19.5(p) and (IV) gross misconduct of doing acts prejudicial

to the interest of the bank vide clause No. 19.5 (j) of the Bipartite Settlement. The Petitioner was asked to submit his explanation against the charge sheet to which he failed to submit his explanation, an enquiry was ordered in his case and Enquiry Officer was appointed. Enquiry Officer informed the details and steps of enquiry to the Petitioner which was held on 7-11-2001 and 12-11-2001 in which the Petitioner workman participated along with his defence representatives. The management produced two witnesses and 19 documents to sustain the charges levelled against the Petitioner. The witnesses were cross examined by the defence representative. Petitioner appeared as defence witness. The Enquiry Officer submitted his report dated 4-12-2001 considering the evidence produced before the Enquiry Officer on the basis of which dismissal order was passed for major misconduct which was approved by Appellate Authority.

8. The contention of the Petitioner that the punishment is disproportionate to the proved charge is devoid of any merit. The Petitioner has remained absent for more than 30 days at one stretch of the time. He was imprisoned for his default in not making the payment to the borrower and non-appearance before the court. He is kept in the custody of the court which amounts to gross misconduct and this punishment aggravated the misconducts committed by the Petitioner. There is no force in the contention of the Petitioner. Petitioner deserves no sympathy and Petition is devoid of any merit and petition is dismissed.

9. Both the parties were asked to furnish their evidence. Petitioner's counsel has filed 14 documents as per list which run in 37 pages, which consists of charge sheet dated 16-8-2000, memorandum calling for explanation dated 10-5-2000, another copy of memorandum dated 23-8-2000, letter calling for explanation dated 9-9-1999 and copy of memorandum calling for explanation dated 4-10-2000, memorandum calling for explanation dated 15-11-1999, letter calling for explanation dated 20-11-1999, letter from VIII M. M. Court, Vijayawada addressed to the branch dated 17-4-1999, copy of the letter of Mr. C. G. P. Ramakrishna, Advocate dated 28-3-2000, copy of the letter addressed by Branch Manager to Zonal Office enclosing the copy of letter of Mr. C. G. P. Ramakrishna, dated 11-9-2000, proceeding of enquiry dated 7-11-2001 to 12-11-2001, proceeding before the A. G. M., Zonal Office, Hyderabad dated 28-1-2002 and letter of S.P. Central Prisons, Rajahmundry dated 4-11-2000. The management has also filed the entire enquiry proceeding book which consists of charge sheet, letter of applicant requesting time for filing reply to charge sheet, letter by Respondent granting time to applicant for reply to charge sheet dated 28-8-2001, letter by Respondent appointing Enquiry Officer, letter by Respondent fixing date of enquiry, letter by management representative to E.O. along with list of documents and acknowledgement by applicant, enquiry proceedings, enquiry report, letter by Respondent to applicant furnishing the copy of enquiry report. Show cause

notice, Minutes of personal hearing, order by Disciplinary Authority, letter by Respondent, acknowledgement of proceedings dated 1-2-2002 by the applicant dated 1-2-2002, letter to the applicant along with order of the Appellate Authority dated 28-5-2002, attendance register of Gandhi Nagar branch for the months of April, 99 to December, 99 and July, 2002 to October, 2002, Memo by R3 dated 11-5-99 and 23-8-2000, letter by Respondent to applicant dated 9-9-1999, Memo by R3 dated 14-10-2000 and 15-11-1999, letter by R3 to applicant dated 20-11-99, letter by Respondent to applicant dated 26-11-99, 26-11-99, 11-5-99, copy of staff card pertains to applicant, letter by R3 to DGM dated 11-5-99, Letter to R3 by VIII Metropolitan Magistrate, Vijayawada, notice by Advocate to R3, letter by R3 to General Manager, I.R. Department, dated 25-4-2001 and letter by Superintendent of Prisons, Rajahmundry to Senior Branch Manager, dated 11-4-2000.

10. None of the parties appeared for argument. Though sufficient opportunity was afforded to both the parties to argue the case as such, in the absence of oral or written arguments of the parties, I have gone through the record, pleadings of the parties and documents produced by the parties to arrive at a decision on the basis of the terms of the reference received from Government of India.

11. This tribunal has to consider following questions:

(I) Whether the action of management of Syndicate Bank in dismissing the service of Sri P. Venkateswara Rao is justified?

(II) If not, what relief the workman is entitled to?"

12. Point No. (I): This tribunal has to consider the justification or otherwise of the dismissal order of the Petitioner workman. It is undisputed case between the parties that the Petitioner was working as attender in the office of the third Respondent. It is also not disputed that Petitioner remained absent from 1-4-1999 to 1-10-1999. It is undisputed fact between the parties that Petitioner workman borrowed a sum of Rs.19000 from one Sri K. S. R. Prasad during the year 1995—1997 and he could not pay the instalment of the borrowed amount. Hence, Sri. K. S. R. Prasad filed original suit before Civil Court, Vijayawada and decree was obtained by Sri K. S. R. Prasad, since the decreed amount was not paid by the Petitioner Sri K. S. R. Prasad filed E.P. for realization of the decreed amount and Petitioner did not appear before the Executing Court nor paid the amount as such, arrest warrant was issued against him, he was arrested and imprisoned for 30 days. The Petitioner's contention is that he was attacked with Jaundice and he was taking treatment for Jaundice for through the allopathic system of medicine and through the ayurvedic system of medicine. His further contention is that his absence for 16-11-1999 to 30-11-1999, 1-12-1999 to 2-12-1999, 6-12-1999 to 10-12-1999 and 29-12-1999 to 31-12-1999 could have been adjusted out the privileged leave. Thus, the contention of the management that Petitioner was irregular to his attendance is not correct as per the contention of the workman.

13. As against this allegation of the Petitioner, the management has contended that Petitioner remained absent for a period of 276 days between 19-4-1999 and 18-10-2000 and on two occasions the Petitioner remained absent for more than 30 days continuously, that was from 19-4-1999 to 1-10-1999, i.e., for 166 days and from 16-9-2000 to 18-10-2000 without prior intimation.

14. Though the Petitioner was detained in Civil Prison for the period from 16-9-2000 to 18-10-2000 against arrest warrant issued and produced before Additional Civil Judge, Vijayawada, but this absence was not intimated by the Petitioner to the management. Not only that the Petitioner has not given any cogent and reasonable cause for his absence of 166 days from 19-4-1999 to 1-10-1999. This absence for more than 30 days is a gross misconduct vide clause 19.5(p) of bipartite settlement. Secondly, the Petitioner borrowed money from private money lender, but, did not pay the amount, he faced recovery proceeding before the Civil Court where he did not appear even after passing of the decree, he did not appear before the Executing Court for satisfaction of the decree and he was lodged in the civil prison. This fact was concealed by the Petitioner and it was brought to the notice of the Branch Manager by the concerned court and the advocate of the money lender. This act of the Petitioner workman is prejudicial to the interest of the bank and it was gross misconduct on the part of the Petitioner workman under clause 19.5 (j) of bipartite settlement. The Petitioner did not explain the cause of his absence though he was given ample opportunity to explain his conduct and reason of his absence for more than 166 days at one stretch of the time he did not produce any certificate or medical report before the Enquiry Officer or the Branch Manager nor he did not apply for leave in those days. Thus, in terms of the bipartite settlement, clause 19.5(j) and (p), the action of management is justified, Petitioner was dismissed for reasonable and proper cause, the punishment imposed by management is not disproportionate nor excessive.

15. I have considered this aspect of the matter and I am convinced that there is not a single iota of evidence on record that Petitioner was absent due to his illness and disease of Jaundice from 19-4-1999 to 1-10-1999. No medical prescription or even medicine purchase bill or medical certificates either before the Enquiry Officer or before this tribunal has been produced. Thus, the contention of Respondent that absence was with a view to avoid his attendance before the Civil Court appears to be justified. It was the duty of the Petitioner to come up reasonable cause and proof before the Enquiry Officer that he remained absent for genuine cause from 19-4-1999 to 1-10-1999, he has not discharged his duties, he has failed to prove that he remained absent for any unforeseen reason or cause as such, the Petitioner has committed major misconduct or gross misconduct within the meaning of clause 19.5(j) of the bipartite settlement, not only that the Petitioner being responsible employee of the bank, a public utility service undertaking of the Government of India has not acted in a

manner which is not expected from him. He borrowed the amount from a money lender but did not pay the instalment. When the money lender filed suit he did not appear before the court, not only that a decree was passed against the Petitioner workman he was arrested by the Executing Court staff and while he was in custody of court staff he escaped from the custody of the court he was re-arrested and was lodged in the prison, this behaviour of the Petitioner is unbecoming of a reasonable man and misconduct of a government employee. This conduct is defined under clause 19.5(g) of bipartite settlement, is proved against the workman. This material fact has not been challenged by the Petitioner workman either in his own claim statement or by filing any rejoinder petition against the counter statement. Thus, the management was constrained to impose penalty of dismissal from service for the two gross misconducts committed by the Petitioner, one having remained absent for more than 30 days, i.e., for 166 days at one span of time and second for escaping from the custody of the court and being remained lodged in the civil prison without intimation to the management. Thus, the action of the management can not be said to be unjustified. The management has imposed proper and proportionate punishment which can not be said to be excessive. In the opinion of this tribunal the action of the management is fully justified. Point No. 1 is decided accordingly.

16. **Point No. (II) :** From the discussion of Point No. (I) this tribunal is of the opinion that no excessive punishment has been awarded to the Petitioner workman. He deserves no sympathy from this tribunal. He is not entitled for any relief. Point No. (II) is decided accordingly.

17. The reference is decided as such and hence, the action of the management of Syndicate Bank is held to be legal and justified and workman is not entitled for any relief.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 23rd day of February, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1325.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/103/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-12011/130/2004-आईआर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S.O. 1325.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/103/04) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Bank of India, and their workmen, received by the Central Government on 19-4-2011.

[No. L-12011/130/2004-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/103/04

Presiding Officer : SHRI MOHD. SHAKIR HASAN

The General Secretary,
Daily Wages Bank Employees Association,
Hardev Niwas, 9, Sanwer Road,
Ujjain (MP).

...Workman

Versus

The Regional Manager,
Bank of India,
Zonal Office, 8,
Shanku Marg, Freeganj,
Ujjain.

...Management

AWARD

(Passed on this 5th day of April, 2011)

1. The Government of India, Ministry of Labour vide its Notification No. L-12011/130/2004-IR (B-II) dated 7-10-2004 has referred the following dispute for adjudication by this tribunal:-

"Whether the action of the management of Zonal Manager, Bank of India, Ujjain in terminating the services of Shri Narayan Mali w.e.f. 25-7-2001 is justified? If not, to what relief the workman is entitled for?"

2. The case of the Union/Workman in short is that a loan was sanctioned to the claimant/workman on 11-1-2000 from the management Bank. The workman is said to have

gone to the Bank of India, Mandsaur Branch on 26-9-2000 in connection to deposit the instalment of the loan where the Branch Manager offered him to work on daily wages @ Rs.90 per day against permanent post of peon. Accordingly he was engaged on the said date and worked continuously but on 25-7-2001 he was terminated without any notice and without giving retrenchment compensation. Thereafter the management Bank engaged one Shri Dharendra alias Dhiraj as daily wages employee in his place. It is stated that he had worked 240 days and his retrenchment is in violation of the provision of Section 25F of the Industrial Dispute Act, 1947 (in short the Act, 1947). It is submitted that the workman be reinstated with back wages.

3. The management appeared and contested the reference by filing written statement. The case of the management, inter alia, is that the Union has no locus standi to raise the dispute against the management. There is no relationship of employer and employee between the management Bank and the workman. He was never in the employment of the Bank and therefore the question of termination doesnot arise. It is stated that Shri Narayan Mali had availed a loan of Rs. 90,000 under Prime Minister's Rozgar Yojana on 11-1-2000 from the Bank's Mandsaur Branch and repaid the loan in full by 23-12-2003 from the income generated from his Kirana shop. On these grounds, it is submitted that the reference be answered in favour of the management.

4. On the basis of the pleadings of the parties, the following issues are framed-

- I. Whether there was any relationship of employer and employee between the management Bank and the workman?
- II. Whether the action of the management in terminating the services of Shri Narayan Mali is justified?
- III To what relief, the workman is entitled?

5. Issues No. I & II

Admittedly the claimant/workman took loan prior to the alleged employment from the Bank of Mandsaur Branch. He has also admitted his signatures on loan papers in his evidence. The said loan was taken for self employment. This shows that the claimant/workman was already in self employment under the scheme of Rozgar Yojana and the alleged employment in the Bank appears to be not probable.

6. However let us examine the evidence adduced in the case. The management had never any relationship of employer and employee. The workman Shri Narayan Mali has not adduced any documentary evidence to show that he was ever in the employment of the management bank on daily wages. He is simply examined in the case. The burden is on the workman to prove that he was engaged by the

Bank on daily wages. Shri Narayan Mali has admitted in his evidence that he took loan for starting Kirana shop under unemployment scheme. He has stated that no appointment letter was issued. His name was not recommended by the Employment Exchange. He has further stated that he cannot say that as to how many days he worked in the year 2000 and also in the year 2001. His evidence shows that there is no chit of paper of his employment. Moreover the story that he worked continuously with the Bank is also not corroborated by his evidence. His evidence appears to be not reliable specially because he was already in self employment during the said period on account of taking loan under the scheme.

7. On the other hand, the management has also examined one witness. Shri Suresh Parwal was Branch Manager at Mandsaur Branch at the relevant time. He has completely denied in his evidence that the workman was in the employment of Bank rather he has corroborated the fact that Shri Narayan Mali took loan under Prime Minister's Rozgar Yojana on 11-1-2000 and repaid the loan by 3-12-2003 after generating income from Kirana shop. His evidence establishes that Shri Mali was in self employment and there was no relationship of employer and employee between the Bank and Shri Narayan Mali and the question of termination doesnot arise. These issues are decided in favour of the management and against the workman.

8. Issue No. III

On the basis of the discussion made above, it is clear that the workman was not in employment of the management and therefore he is not entitled to any relief. The reference is accordingly answered.

9. In the result, the award is passed without any order to costs.

10. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1326.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनाइटेड कमिश्नियल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सीजी आईटी/एनजीपी/48/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-12012/28/1998-आईआर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S.O. 1326.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. No. CGIT/NGP/48/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of United Commercial Bank and their workman, received by the Central Government on 19-4-2011.

[No. L-12012/28/1998-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/48/2001

Date: 31.03.2011

Party No. 1 : The Regional Manager,
United Commercial Bank, Regional
Office, Sushil Bhawan, Dr. Balaraj Marg,
Dhantoli, Nagpur-4400 12.

Versus

Party No. 2 : Shri Dilip R. Alsapure,
Shiv Kripa Building, Data Rao Lay-out,
Near house of Mr. Adhau,
Amravati -444606

AWARD

(Dated: 31 st March, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of United Commercial Bank and their workman, Shri Dilip R. Alsapure for adjudication to the Central Government Industrial Tribunal, Jabalpur, as per letter No. L-12012/28/98-IR(B-II) dated 30-12-1998, with the following schedule :—

"Whether the action of the management of UCO Bank in terminating the services of Sh. Dilip R. Alsapure w.e.f. 24-6-97 is legal and justified? If not, what relief the said workman is entitled to?"

Subsequently, the reference was transferred to this Tribunal for disposal in accordance with law.

2. Being noticed, the Workman, Shri Dilip R. Alsapure ("the workman" in short) filed the statement of claim and the management of United Commercial Bank ("the Party No. 1" in short) filed its written statement.

The case of the workman as projected in the statement of claim is that he was working in Amravati Branch of UCO Bank as a Peon from 5-9-95 to 23-6-97 continuously without any break or interruption, against a clear and substantive vacant post and he was discharging the duty of a Peon, such as, delivery of dak to post office, bringing dak from the Post office, carrying registers and ledgers from one table to another in the Bank and other duties entrusted to him by his superior officers from time to time and his duty hours were from 10 AM to 7 PM, like

that of the regular employee and the work he was performing was of permanent nature lasting throughout the year for all the working days, but, the Party No. 1 instead of appointing him on regular basis in the time scale, paid wages on daily rate basis treating him as daily rated temporary employee for years together though there was no propriety for his such engagement and making payment of wages for temporary work of water filling and in order to deprive him from his claim of regularization and permanency in the services and with a view to pay him less wages than admissible to the post of Peon, he was shown as daily wagger and wages was paid to him at the rate of Rs.25/- per day on vouchers and he had made several request to Party No. 1 to make him regular and permanent in the services in the time scale with retrospective effect and to pay him arrears of difference of wages and for that the Party No. 1 got annoyed and illegally terminated his service orally w.e.f. 24-6-97. It is further pleaded by the workman that while terminating his services, neither one month's notice as required under law was served by the Party No. 1, nor salary in lieu of the notice nor retrenchment compensation was paid to him and there was total disregard to the provisions of section 25-F(a) and (b) of the Act and as the mandatory provisions of section 25-F of the Act were not complied with, the termination of his service is illegal and void ab initio and he had completed 240 days of work preceding the 12 months from the date of the termination and as such, the termination of his services without compliance of the mandatory provisions is bad in law and two posts of Peon were lying vacant at the relevant time and junior to him in the category was retained in services, violating the principles of "last come first go" and seniority list as required under Rule 77 of the Industrial Disputes (Central) Rules, 1957 ("the Rules" in short) was not published by the Party No. 1 and thus provisions of Rule 77 and section 25-G of the Act were violated and the termination of his services was only by way of victimization and in colourable exercise of rights and powers by Party No. 1. It is further pleaded by the workman that after termination of his service, he approached time and again to Party No. 1 to reinstate him in service, but Party No. 1 failed to do so and he sent a registered notice on 6-8-97 through his advocate, which was duly received by the Regional Manager, Nagpur and Branch Manager, Amravati and as Party No. 1 refused to settle the matter amicably, he approached the Conciliation Officer but before the Conciliation Officer also, no amicable settlement could be arrived at between the parties. The workman has prayed for his reinstatement in service with continuity and back wages and all other incidental benefits.

3. The Party No. 1 in its written statement have pleaded inter-alia that the workman was not working with it as a Peon from 5-9-95 to 23-6-97 and he was not given any appointment as per the procedure for appointment, adopted by the Nationalized Banks and no order was given to the workman to work as a Peon and he was never selected nor appointed as a Peon against any substantive or clear vacant post of Peon and the workman is a relative of one of the employees working at Amravati and in order to give him

some monetary help and for obligating him for continuing his education, the then Branch Manager gave him miscellaneous work, like bringing drinking water and filling water in the water coolers during summer and he was given weekly payment on vouchers for doing the miscellaneous work and the workman had not worked continuously and had not completed 240 days of continuous service and even he was not treated as daily rated or temporary employee but he was doing the miscellaneous work on contract and as such, there was no relationship of employer and employee and the vacancies have already been filled in by regular selected employees in the post of Peon and the Branch Manager does not have the authority to engage, appoint or select any person for making him an employee of the Bank and the claim made by the workman is only an effort to make back door entry into service. It is further pleaded by the Party No.1 that vouchers were prepared for indicating payment made and as the workman was never appointed as a Peon, he cannot make a claim for payment as per the salary of a Peon and principle of "equal pay for equal work" is not attracted in the present case and the workman was not working from 10 AM to 7 PM. It is denied by the Party No.1 that as because the workman insisted for making him regular and permanent in service, his service was terminated orally. It is also pleaded by the Party No.1 that as it was not legal and proper to give the work which was earlier being given to the workman, it was decided not to give him any such miscellaneous work and such discontinuation did not attract the provisions of section 25-F(a) and (b) of the Act and there was no retrenchment, there was no need for paying salary and there is no vacancy in Amravati Branch and no junior was retained in service by it and there was no need for preparation of any list as per Rule 77 of the Rules, as the works were done by Peon and appropriate reply had been given to the notice of the workman and that the fact of improper engagement was also brought during conciliation and as the workman was not holding any post, therefore, the question of reinstatement, continuity of service and back wages does not arise.

4. In support their respective claims, both the parties besides placing reliance and documents have adduced oral evidence. The workman has examined himself as a witness in support of his case. He has reiterated the facts stated in the statement of claim and rejoinder, in his examination-in-chief, which is on affidavit. However, in his cross-examination, he has admitted that the Bank Manager appointed him on daily wages and the Manager, Shri W.G. Joshi appointed him as per the recommendation of some persons of his caste, who were working in the Bank and no application was moved by him for the appointment and no letter of appointment was issued by the Bank and he was paid Rs. 25 per day on vouchers for the days he worked from 5-9-95 to 23-6-97 and he was doing the job of Chaparasi and the work mentioned in the payment vouchers are for filling water and sweeping etc. and he did not make any complaint for making wrong entries on the vouchers and the payment vouchers bear his signature. He has also

admitted that Shri N.G. Ingre was the sweeper in the Bank and Shri Thakur was the Daftari and Shri Pandagade was the Peon in Amravati Branch and Shri Thakur and Shri Ingre were the permanent employees of the Bank. He has also admitted that he had not moved any application to the Bank management for regularizing his service and no written order was given to him about his work and no attendance was marked and he had not moved any application for his appointment to the vacant post of Peon and the two persons appointed by the Bank after his termination have come by transfer from other Branches and the regular employees have attendance register and the salary of the regular employees is credited to their savings bank accounts.

5. On behalf of the Party No.1, Shri W.G. Joshi, who was working as the Manager of Amravati Branch of UCO Bank from 25-11-94 to 30-5-98 has been examined as a witness. Witness for the management has also reiterated that the stands taken by the Party No.1 in its written statement, in his evidence filed on affidavit. However, in his cross-examination, he has admitted that the workman was working during the period of 5-9-95 to 23-6-97 and the workman was performing the work of the Peon and he was also asking the workman to do the work of a Peon.

It is necessary to mention here that the witness for the management has filed one calculation sheet showing the payment of wages and number of working days of the workman as Annexure-VII. According to Annexure-VII, the workman worked for 227 days in total from 95 to 97. However, in the cross-examination of the witness for the management, it has been brought out by the workman that though the workman worked for 6 days from 11-9-2005 to 16-9-2005, for 6 days from 18-9-95 to 23-9-95, for 3 days on 25-9-95, 28-9-95 and 29-9-95, for 4 days from 4-10-95 to 7-10-95, and for 6 days from 9-10-95 to 13-10-95 and he was paid wages for those days, those days have not been shown in Annexure-VII. It has also been brought out from the cross-examination of the management witness that though on 3-10-96, the workman was engaged by the Party No.1, such engagement was not shown in Annexure-VII. The management witness has also admitted that Annexure-VII does not show the complete work of the workman.

6. At the time of argument, it has submitted by the learned advocate for the workman that the workman was working as a Peon in UCO Bank Amravati Branch from 5-9-95 till 23-6-97 and instead of appointing the workman on regular basis, his services were terminated orally and with a view to deprive the workman from his claim of regularization and permanency in the services and to pay him less wages; the Party No.1 showed him as a daily rated employee and paid wages at the rate of Rs.25 per day and the claim of the workman has been amply proved from the admission of the witness for the management, who has admitted that the workman was working during the period from 5-9-95 to 23-6-97 and that he was working as a Peon and that the chart filed by the management as Annexure-VII is not correct and so also from the documents i.e. vouchers and other letters produced by the workman and

due to nonproduction of one of the P&L subsidiary ledgers by Party No. 1 and from the materials on record, it can be held that the workman had worked for more than 240 days and as the mandatory provisions of section 25-F were not complied by the Party No.1 before termination of service of the workman, the termination is to be held illegal and liable to be set aside and the workman is entitled for reinstatement in service alongwith continuity of service and payment of back wages. In support of such contentions, reliance was placed on the decision reported in 2005 (4) Mh. LJ pg.527, (Khadi and Village Industries Commission Vs Jagdish Prajapati), 1985 Bank J pg.654 (SC) (H.D.Singh Vs Reserve Bank of India and others) and 2005 (4) Mh. LJ pg.115 (Bank of India Vs Central Government Industrial Tribunal No.2, Bombay).

7. In reply, it was submitted by the learned advocate for the Party No.1 that the workman was engaged for specific work on contract basis like cleaning etc. and his appointment was not in accordance with the rules of appointment applicable to the Bank and no appointment order was issued in favour of the workman and the wages was paid on vouchers and there was no relationship of employer and employee between the party No.1 and the workman and it is clear from the evidence on record that the workman did not work for 240 days in any calendar year and the Bank produced the available documents being noticed and the ledger, which was not produced, does not advance any case of the workman and the case laws cited on behalf of the workman are of no avail, in view of the decision of the Hon'ble Apex Court in Umadevi's case and the workman has no legal right to claim work or any right to the post and as such, there is no question of reinstatement of the workman in service with continuity and back wages. In support of such submissions, reliance was placed on the decisions reported in 1997 (3) LLN page.65 (Escort Limited Vs Presiding Officers and another), (2008) 3 SCC 474 (BSNL and others Vs Mahesh Chand) and 2008-II-LLJ-997 (Sanjay Kumar Tiwari Vs State of Bihar).

8. Keeping in view the principles enunciated by the Hon'ble Courts in the decisions relied on by the parties, the present case at hand is to be considered.

9. It is found from the record that the appointment of the workman was not a regular appointment in accordance with the rules of appointment applicable to the Party No.1. The workman has admitted that he did not submit any application for his appointment and no appointment order was given to him and he was appointed by the Branch Manager on daily wages basis. As the appointment of the workman was not in accordance with the relevant rules of the Bank and after proper competition, the engagement of the workman on daily wages basis does not confer any right on him to be appointed on regular basis.

10. Now it is to be considered as to whether, the workman is entitled for reinstatement in service for non-compliance of the mandatory provisions of section 25-F of the Act. The claim of the workman is that he worked from 5-9-1995 to 23-6-97 continuously without any break or interruption with the Party No.1 and he worked for more

than 240 days in each year and thus it was necessary for compliance of the provisions of section 25-F of the Act, before termination of his service. On the other hand, the Party No.1 has denied that the workman had completed 240 days of work in any calendar year. It is well settled that the initial burden of proof is on the workman to show that he had worked for 240 days preceding the 12 months from the date of alleged termination of service and the onus of proof does not shift to the employer, nor is the burden of proof on the workman discharged, merely because employer fails to prove a defence or alternative plea and the filing of affidavit of workman to the effect that he had worked for 240 days continuously or that he had made repeated representations or raised demands for reinstatement is not sufficient evidence that can discharge the said burden. Other substantiate evidence needs to be adduced to proof 240 days continuous service.

In this case, the workman has filed 41 numbers of xerox copies of the vouchers, under which he had been paid wages. On perusal of the said vouchers, it is found that the workman did not work for 240 days preceding the 12 months from 23-6-97. Admittedly, one P&L subsidiary ledger of the period from 1-4-96 to 31-3-97 was not produced by the Party No.1. and the Party No.1 submitted that the said ledger could not be traced out at that time for its production before the Tribunal. However, during cross-examination of the management witness, no suggestion was given to him that the said ledger had any entry regarding the engagement of the workman, which has not been shown in Annexure-VII. Taking into consideration about the days of engagement of the workman as brought out in the cross-examination of the witness for the management alongwith Annexure-VII and the evidence of the workman that he was paid on vouchers for the days he worked from 5-9-95 to 23-6-97 and the vouchers produced by the workman, it is found that the workman had not worked for 240 days in any calendar year or that he had completed 240 days of work preceding the 12 months from 23-6-97. It is not the case of the workman that there are other vouchers, which he was not able to produce before this Tribunal. Though the management witness has stated that the workman was working during the period of 5-9-95 to 23-6-97, from the same, it cannot be held that the workman worked continuously from 5-9-95 to 23-6-97. As the workman has failed to prove that he had completed 240 days of work preceding the 12 months from 23-6-97, the provisions of section 25-F of the Act are not applicable and as such, for non-compliance of the said provisions by the Party No. 1 before termination of the service/work of the workman cannot be taken as a ground to hold the termination as illegal. Hence, it is ordered :

ORDER

The action of the management of UCO Bank in terminating the services of Sh. Dilip R. Alsapure w.e.f. 24-6-97 is legal and justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2011

AWARD

का. अ. 1327.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विशाखापटनम पोर्ट ट्रस्ट के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 116/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-34011/3/2003-आई आर(बी. II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S. O. 1327.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 116/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of Visakhapatnam Port Trust, and their workmen, received by the Central Government on 19-04-2011.

[No. L-34011/3/2003-IR(B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Shri VED PRAKASH GAUR, Presiding Officer

Dated the 24th day of February, 2011

Industrial Dispute No. 116/2004

Between:

The General Secretary,
Port & Dock Employees' Association,
Rama Padma Nilayam, 14-25-32 A. Bazar,
Maharanipeta, Visakhapatnam - 530002.

... Petitioner

AND

The Chairman,
Visakhapatnam Port Trust,
Port Area, Visakhapatnam - 530035.

... Respondent

APPEARANCES:

For the Petitioner : Sri S. Rama Rao, Advocates.

For the Respondent : M/s. D.V. Subba Rao &
D.V.S.S. Somayajulu,
Advocates.

This reference was received from the Government of India, Ministry of Labour by its Order No. L-34011/3/2003-IR(B-II) dated 10-9-2003 to resolve the dispute under section 10(1)(d) of the I.D. Act, 1947 between the management of Visakhapatnam Port Trust and, Sri B. Srinivasa Rao, Greaser. The term of reference is as under:

SCHEDULE

“Whether the action of the management of Visakhapatnam Port Trust by way of inflicting punishment of withholding of annual increment for a period of one year without cumulative effect in respect of Sri B. Srinivasa Rao, Greaser, B.G. Loco, Mechanical Department as alleged by Port and Dock Employees' Association, Visakhapatnam is legal and/or justified? If not, what relief the concerned workman is entitled to?”

After receipt of the reference, it is numbered in this Tribunal as I.D. No. 116/2004 and notices were issued to the parties.

2. Workman union submitted claim statement stating therein that Respondent management issued a charge-sheet for major penalty under Regulation 10 of the Visakhapatnam Port Employees (Classification, Control & Appeal) Regulations, 1968, alleging therein that the workman intentionally avoided attending to the enquiry fixed by the Respondent in connection with the derailment occurred in the early hours of 25-2-2002 i.e., at about 7 AM during the third shift of the workman on 24-2-2002 on the plea of injury sustained by him and thus the workman allegedly exhibited willful insubordination towards his officers.

3. The workman submitted explanation on 25-5-2002 denying the charges stating therein that he has nothing to do with the derailment of the B.G. Loco. The workman was permitted by his shift in-charge to go to hospital on 25-2-2002 at 7 AM for necessary treatment. The workman noted in the movement register when he was about to move the shift in-charge informed him that there is an enquiry with regard to the derailment and the workman has to wait till the Assistant Engineer of the section comes. The workman waited up to 7.45 AM, thereafter he could not withstand for the pain that was aggravated on account of the nail penetration to his foot in the last night while he was in the shift duty.

4. An enquiry was held with regard to charges framed against the workman, report was submitted and the Petitioner was punished with stoppage of one annual increment without cumulative effect. Petitioner made representation to his superiors but it was turned down. Labour dispute was raised which was referred to the Ministry and hence, this reference. The Petitioner has

prayed that the punishment of stoppage of his annual increments be quashed.

5. Counter statement has been filed by Respondent management wherein management has stated that Petitioner was issued with charge-sheet for major penalty under Regulation 10 of the VPE's (CC & A) Regulations based on a report that he has intentionally avoided attending for enquiry and has thus exhibited insubordination and refusal of the official instructions. The Petitioner submitted his explanation which was not found satisfactory enquiry was ordered and conducted wherein the charges of insubordination and refusal of final instructions were found proved and Petitioner was imposed with penalty, which is not a major penalty but it is a minor penalty.

6. Parties produced their evidence, Petitioner filed evidence affidavit and appeared for cross examination. Respondent management has filed affidavit of Sri K. Nagabhushana Rao, Labour Officer of the Respondent and appeared for the cross examination. The parties filed domestic enquiry proceeding record as well. Since domestic enquiry was held in the matter question of legality and validity of enquiry was taken up first. Petitioner filed a memo dated 22-4-2009 stating therein that he is not challenging the validity of the domestic enquiry as such, the domestic enquiry has been held as legal and valid. Parties were heard under Sec. 11A of the Industrial Disputes Act, 1947.

7. Petitioner has filed written arguments wherein his advocate has pleaded that the Petitioner has been unnecessarily punished for no fault as the Petitioner has not refused to attend the enquiry nor he disobeyed his superiors. He sustained injury in the night shift and he was to leave for the hospital for taking treatment as he was feeling pain in his leg. He took permission from his supervisor, made endorsement in the movement register and when he was about to move then he was asked to wait till Assistant Engineer of the section comes for an enquiry with regard to the derailment. Petitioner waited up to 7.45 AM but the Assistant Engineer did not come and then the Petitioner left for hospital. The Petitioner never refused to participate in the enquiry proceeding, the alleged enquiry was never conducted nor it was concluded but Petitioner has been willfully, unnecessarily punished for not attending the enquiry. Whereas he was not having any role in derailment of B.G. Loco nor had any connection with the derailment enquiry as such, the punishment is unnecessary and outcome of harassing attitude of the management.

8. Learned Counsel for the Respondent has also filed written arguments where he has argued that a lenient punishment was awarded to the Petitioner with a speaking order. The Petitioner has deliberately refused the order of

the management in attending the enquiry fixed for ascertaining the fact of derailment of the Loco. He has argued that the punishment imposed by the management should not ordinarily be altered in a very causal manner by simply stating it disproportionate by the Industrial Tribunal unless the tribunal satisfied that the punishment imposed by the management is shockingly disproportionate to the degree of guilt of the workman concerned.

9. This tribunal has to consider the following points :

“(I) Whether the action of the management Visakhapatnam Port Trust by way of inflicting punishment of withholding his annual increment for a period of one year without cumulative effect in respect of Sri B. Srinivasa Rao, Greaser, B.G. Loco, Mechanical Department is legal and justified?

(II) To what relief if any the Petitioner is entitled?”

10. Point No.(I): It is not disputed between the parties that the Petitioner was a Greaser on the relevant time and he attended duty in the third shift of 24-2-2002. He was present at his duty up to 7 AM on 25-2-2002. It is also undisputed between the parties that the derailment of the locomotive took place on 24-2-2002. It is also undisputed between the parties that Petitioner was not locomotive driver. It is also undisputed between the parties that an enquiry was to be conducted to ascertain the cause of derailment on 25-2-2002. It is also undisputed between the parties that Petitioner has sustained injury in his leg during the third shift of 24-2-2002 night and he was to move to the hospital. The dispute is that as per Petitioner's contention he sought permission from his supervisor to go to hospital because he was feeling severe pain in his leg because nail was pierced or penetrated while working in the night duty. According to the Petitioner, on the permission of his supervisor he made entry to this effect in the movement register and he was to move at that time he was asked to wait for arrival the Assistant Engineer. The management's contention is that Petitioner refused to oblige the order of the supervisor. He did not attend the enquiry proceeding and thereby it amounts to refusal of Petitioner to obey the legal order of his superior and disobedience of the order of the superior. No party has stated that the Petitioner was informed that he has to attend the enquiry proceeding at a particular place at a particular time.

11. It is also undisputed that Petitioner has worked in the third shift and his shift duty was to be finished at 7 AM. In that case if the Petitioner sought permission to leave the work place from his own supervisor and supervisor permitted him to leave the work place after making endorsement in the movement register it can not be said that the Petitioner was duly informed regarding

the place, date, time of the alleged enquiry. More over the Petitioner's contention is that he waited upto 7.45 AM for arrival of his Assistant Engineer who did not arrive upto 7.45AM and then he left for hospital. I have gone through the statement of Sri G. Narasimhulu, AE (M) who stated that on 25-2-2002 during zero hour to 8 hours derailment of B.G. Loco took place and Petitioner workman was informed by shift incharge to attend for enquiry, but, Petitioner has not attended the enquiry on the pretext that he required to go to hospital for treatment. He was asked whether he informed the importance of enquiry and explained that Petitioner has to attend at a particular time and place, to this question he has stated that "I have explained the importance of this enquiry and had asked him to go to the hospital at 10 0' clock," this proves that the Petitioner was not asked to appear at 10.30 AM as alleged in the charge sheet. If AE has asked the Petitioner to go at 10 0' clock to the hospital how could the Petitioner have attended the enquiry at 10.30 AM as alleged in the charge sheet. Moreover, the A.E. has not stated that he directed the Petitioner to attend the enquiry at a particular time and particular place before a particular Enquiry Officer. If these important information were not given to the Petitioner, how could he participate in such enquiry, under these circumstances, it can not be said that Petitioner has disobeyed any lawful direction or has refused to attend the enquiry.

12. The statement of Assistant Engineer clearly established that he too has advised the Petitioner to go to hospital but at 10 AM, meaning thereby the Petitioner was asked to go to hospital. When the Petitioner could go to hospital was not a matter of advice by an Engineer, it was a matter of advice by a medical practitioner. How, severe the injury was, can not be ascertained by an Assistant Engineer but, it is a person who has suffered injury or a Doctor who has to treat the injury, he could ascertain the gravity of the injury. From the statement of the A.E. available on the enquiry file, I am convinced that the Petitioner was not informed about the actual time and place of the enquiry. Undoubtedly, he has sustained injury in the shift he was working and he was to go to hospital. If he has gone to the hospital he has committed no mistake. It can not be said that it is an insubordination or voluntary disobedience of the order of the superior. Moreover, in the matter of derailment of Loco's enquiry, the enquiry was not concluded nor any report was submitted, then, why poor workman, who sustained injury in the night shift has been made to suffer for no fault. This aspect of the matter has not been explained by management was no necessity to punish the workman Sri B. Srinivasa Rao, for an act which has not been committed by him, he was neither responsible for the derailment of the loco being a greaser of the engine nor responsibility was fixed on him, regarding derailment of the engine only the Petitioner was punished

for not attending the alleged enquiry which was not conducted nor started. The Petitioner was not informed regarding exact date, time and place of the enquiry or the name of the Enquiry Officer as such, it can not be said that he has voluntarily not attended the enquiry proceeding or has refused to appear before the Enquiry Officer. The enquiry report is not legal in the present case because, the Petitioner workman has submitted several documentary evidences i.e, the medical certificates, treatment taken by him, which has not been considered by the Enquiry Officer, thus, enquiry report is also illegal and lopsided. Though the Petitioner has not challenged the enquiry proceeding, but non-consideration of the evidence produced by the delinquent employee, during course of enquiry proceeding is a serious matter and it may give an impression that the Enquiry Officer has not acted according to the spirit of law. The finding given by the Enquiry Officer is perverse and punishment based on such a perverse finding is not sustainable in the eye of law. The Petitioner workman who has neither refused nor disobeyed any order of the superior has been unnecessarily punished and his punishment is shockingly disproportionate, as such, liable to be quashed. The punishment is unjustifiable and illegal. Point No. (I) is decided accordingly.

13. Point No. (II): Petitioner workman was punished unnecessarily for no fault. The punishment is shockingly disproportionate and unnecessary. Hence, deserves to be quashed and the Petitioner is entitled for the relief claimed. The punishment imposed on the delinquent is being quashed. Point No. (II) is decided accordingly.

14. From the above discussion, this tribunal has come to the conclusion that the action of the management of Visakhapatnam Port Trust by way of inflicting punishment of withholding of annual increment for a period of one year without cumulative effect in respect of Sri B. Srinivasa Rao, Greaser, B.G Loco, Mechanical Department as alleged by Port and Dock Employees' Association, Visakhapatnam is illegal and unjustified. Management is directed to restore the increment which was withheld by it by the impugned order. Hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 24th day of February, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for
the Petitioner

WWI: Sri Nemani
Suryanarayana Rao

Witnesses examined for
the Respondent

MWI: Sri K. Naga-
bhushana Rao

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 अप्रैल, 2011

का. आ. 1328.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार शिपिंग कॉर्पोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, मुम्बई के पंचाट (संदर्भ सं. सीजीआईटी-18 ऑफ 2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-31011/16/2003-आई आर (बी. II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2011

S. O. 1328.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-18 of 2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of Shipping Corporation of India and their workmen, which was received by the Central Government on 19-04-2011.

[No. L-31011/16/2003-IR(B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 1****MUMBAI**

JUSTICE G. S. SARRAF, Presiding Officer

REFERENCE NO. CGIT-I/18 OF 2004

Parties: Employers in relation to the management of Shipping Corporation of India

AND

Their Workmen

APPEARANCES:

For the Management : Shri. R. S. Pai Adv.
Ms. Bindoo Grover, Adv.

For the Union : Shri Alva, Adv.

State : Maharashtra

Mumbai, dated the 31st day of March, 2011

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 the Central Government has referred the following dispute for adjudication to this Tribunal.

"Whether the claim made by Lal Bavta Hotel Aur Bakery Mazdoor Union for absorption of canteen workers in the direct employment of the Shipping Corporation of India Ltd., Mumbai is justified and legal? If not, what relief is the workers represented by the union entitled to?"

As per the statement of claim submitted by the Union it has taken up the cause of 41 employees employed as canteen staff in various establishments of the first party through contractors since last about 30 years. During this period contractors have changed but the canteen employees have continued in the employment. At present M/s. Saikripa Catering Services has been awarded the contract and the canteen employees have been employed by the first party through M/s. Saikripa Catering Services. The first party is exercising supervision and control over the canteen workers right from the beginning in as much as the canteen workers are required to punch their daily attendance with the Corporation, their services are transferable at the instance of the Corporation and their pay scales and other conditions offered to them are as applicable to ad-hoc employees of the Corporation and the nature of work performed is of permanent and perennial in nature. The contract between the Corporation and the present contractor M/s. Saikripa Catering Service is nominal or camouflage. The Corporation by its letter dtd. 09-3-1998. Informed the Union about the payment of warm clothing allowance to the canteen employees and by letter dtd. 04-8-1988 the Corporation communicated to the Union about the grant of house building loan. Even the tender conditions incorporated terms and conditions of the canteen employees. In a letter dtd. 13-2-1997 addressed to the Union the Corporation has specifically mentioned that even if the contractors are changed the services of the canteen employees will continue subject to age of superannuation. Even after reduction in catering services the canteen employees have been deployed by the Corporation for office work and they have been assigned duties of peons and clerks. According to the statement of claim, the contract is sham, bogus and camouflage to deprive the canteen workers their right of absorption, regularization and permanency. The Union has prayed that the services of the canteen employees be regularized and be made permanent in the Corporation.

The Corporation has submitted its written statement wherein it has stated that it had canteens and contractors to run canteens at its Shipping House, 245, Madame Cama

Road, Mumbai from about 1971. It also had canteen contractors in respect of its establishment at Worli from 1986. At present the Corporation has its contract with M/s. Saikripa Catering Services at Shipping House as well as its establishment at Worli for the limited purpose of providing only tea or coffee to employees twice in a day. The canteens at other places were closed down prior to the order of reference. The contractors have changed from time to time and in that process M/s. Saikripa Catering Services have been given the contract from June 1995 and they are still continuing. In 1999 the Union filed a writ petition no. 1661 of 1999 in the Bombay High Court praying for abolition of contract labour system in the canteen. However, the Bombay High Court by order dt. 18-8-1999 directed the Govt. of India to refer the matter to the Central Advisory Committee. Pursuant to the said direction the issue was referred to the Central Advisory Committee which held its meetings on 6th and 7th April, 2000 at New Delhi. The committee held that no action arose in the case as the Union was not urging its case for abolition of contract labour. The Govt. of India accepted the report of Central Advisory Committee. Being aggrieved by the decision of the Central Government the union by its notice of motion No.33 of 2001 in writ petition No.1661 of 1999 prayed for an order to the Central Advisory Board and Govt. of India to forthwith hear the Union and make fresh order on the application of the Union. However, when the notice of motion came up for hearing the Union withdrew the said notice of motion with liberty to file a petition challenging the Central Advisory Board. The Union then filed writ petition No. 685 of 2002 which was dismissed by the Bombay High Court by order dtd. 12-7-2002 but gave liberty to the Union to approach the appropriate government for adjudication of its demands in view of the judgement of the Supreme Court in the case of Steel Authority of India vs. National Union Water Front Workers reported in (2001) 7 SCC and in the case of Municipal Corporation of Greater Mumbai Shramik Sangh and others reported in (2002) II CLR. According to the written statement since the union did not press the issue before the Central Advisory Committee no reference lies on the same subject as it is barred by res judicata. According to the written statement the Union of the employees of the Corporation has not taken up the dispute and the dispute raised by the present Union is not an industrial dispute and, therefore, the reference is not maintainable. According to the written statement the Corporation is not the employer of the canteen employees and the contract is neither sham nor bogus since the canteens have been closed and the Corporation does not require any canteen workers and hence the question of regularization does not arise. At no time the Corporation had any direct control or supervision over the canteen workers. The contractors continued to supervise and control the canteen workers. According to the Corporation in view of the facts and circumstances

of this matter the canteen workers cannot be absorbed in the Corporation.

The Union filed rejoinder stating therein that the Union filed writ petition no.1661 of 1999 in respect of 37 casual/temporary employees and that no writ petition was filed on behalf of the present canteen workers. In pursuance to the order dt 18-8-1999 passed by the honourable Bombay High Court the Union approached the Central Advisory Committee for abolition of contract labour system in relation to the said temporary/casual employees and not in respect of the present canteen workers. The decision of the Advisory Committee in respect of the prohibition of contract labour is, therefore, of no relevance in the present matter. The notice of motion no.33 of 2001 in writ petition no. 1661 of 1999 was also pertaining to the 37 temporary/casual employees and the writ petition no.685 of 2002 filed in the Bombay High Court was also in relation to the 37 temporary/casual employees and not in respect of the present canteen employees. The allegation that this reference is barred by res judicata for having approached the High Court in writ petition no.1661 of 1999 and thereafter the Central Advisory Committee for abolition of contract labour is misconceived and untenable as no dispute was raised by the present canteen employees pertaining to abolition of contract labour. The contention that this court has no jurisdiction to entertain the present dispute as it does not constitute an industrial dispute because it has not been espoused by the Union of employees of the corporation is completely untenable as judgement of honourable Supreme Court in the matter of Steel Authority of India v/s. National Union Water Front Workers reported in (2001) 7 SCC clearly envisages that the contract workers can directly approach an industrial adjudicator in regard to condition of service including the question whether the contract is genuine or mere camouflage.

The union also furnished a list 41 present canteen workers obtained from the office of Commissioner of Labour.

The Corporation filed an additional written statement. The Corporation reiterated that no industrial dispute can be raised by the Union in as much as it does not represent workmen of Shipping Corporation of India who are represented by the Shipping Corporation of India Employees Union and only Shipping Corporation of India Employees Union alone can raise a dispute regarding abolition of contract labour and as such the present Union has no locus standi. According to the additional written statement, writ petition no.1669 of 1999 and writ petition no.685 of 2002 relate to abolition of canteen contract labour and absorption of such contract workmen and both were dismissed and as such no fresh demand is maintainable. According to the additional written statement the Corporation and its workmen represented by the Shipping

Corporation of India Employees Union entered into a settlement dt.14-1-2002 as a result of which the workmen of the Corporation have decided not to have any canteen facility and as such the system of canteen services have been closed down once and for all and there is no work for the present 41 canteen workers and only in these circumstances the contractor was asked to re-deploy these canteen workers to do other work.

The Corporation filed a sur-rejoinder on 18-11-2005 and filed an amended written statement on 03-4-2006. The Union filed rejoinder to the amended written statement. The respective parties reiterated their stand.

Following issues were framed.

- (1) Whether the second party union justifies its demand for absorption of the canteen workers under the contract of employment of the Shipping Corporation of India?
- (2) Whether the contract under which the labourers were employed was a sham and bogus contract and its effects ?
- (3) Whether the present reference for abolition of the contract labour system in the canteen survives after the Bombay High Court order dt 18-8-1999 and subsequent decision of the Contract Labour Abolition Board, Central Advisory Board Committee dt 07-4-2000 and the order of Govt. of India dt 29-8-2000?
- (4) Whether the second party union has the authority to espouse the claim of the labourers under reference?
- (5) Whether in view of the agreement between the first party company and its employees through Shipping Corporation of India Employees Union dt 14-1-2002 and the canteen being closed down, the question of absorbing the canteen workers arises in the employment of the first party company?
- (6) What relief?

The Union has filed affidavits of Prakash G.Radye, Harish Oevappa Shetty, Tharanath Ramayya Shetty and Oinkar Nandi Chandan who were cross examined by learned counsel for the Corporation. The Corporation filed affidavit of Dnyanesh Kanvinde who was cross-examined by learned counsel for the union.

The affidavit of Shankar Krishna Mhaske has been filed on behalf of the Union but this affidavit cannot be read in evidence as no opportunity to cross examine him has been given to learned counsel for the Corporation.

Heard Shri R.S.Pai, learned counsel for the Corporation and Shri Alva learned counsel for the Union.

ISSUE NOS. 1 and 2

Shri Alva, learned counsel for the Union, has argued that the canteen workers have been working for the last 30 years uninterruptedly and this continuity of employment of the canteen workers irrespective of the change of the contractors suggests that the Corporation accepted as a matter of fact that the canteen workers are the employees of the Corporation. He has argued that the canteen workers have been working under the direct supervision and control of the officers of the Corporation and the fact that the canteen workers are still in job inspite of the closure of the canteen indicates that the contract between the Corporation and the contractor, namely M/s. Saikripa Catering Services is sham, nominal and merely camouflage to deny employment benefits to the canteen workers.

Shri R.S.Pai, learned counsel for the Corporation, has vehemently contended that the workmen are not entitled to absorption because they are not in the employment of the Corporation being the workmen of the contractor who has entered into an agreement with the corporation for providing canteen services in the premises of the Corporation. He has said that the management of the Corporation has no supervision or control over the canteen workers which power rests with the contractor. He has argued that whatever facility and infrastructure that has been provided to the canteen workers is out of compassion and now the canteen workers are trying to take undue advantage of this. He has argued that the wages to the canteen workers are being paid by the contractor and, therefore, there is nothing on record to show that the contract between the Corporation and the contractor is sham, nominal and merely a camouflage. He has placed reliance mainly on (2011 (1) CLR 1, 2009 (4) LLJ 31 9SC) and 2005 (2) CLR 457.

I have carefully considered the rival submissions made by learned counsels for the parties.

In the documents produced by the Corporation there is a copy of letter dt.15-5-1995 addressed by the Corporation to M/s.Saikripa Catering Services wherein the Corporation has required M/s.Saikripa Catering Services to absorb the 78 canteen workers which include the present 41 canteen workers. There is another letter of the Corporation addressed to the Union dated 13-2-1997 placed at page 18 whereby the Corporation has confirmed that even though the canteen contractors may change from time to time services of 43 canteen workers (including the present 41 canteen workers) would be continued subject to superannuation age of 60 years. There is yet another letter dated 9-5-2002 placed at page 199 of the Corporation addressed to M/s.Saikripa Catering Services regarding re-deployment of canteen workers whereby the canteen workers have been assigned the following jobs between 11.30am to 1.30pm and 3.30pm to 17.45pm.

- a. To provide drinking water as and when required to the officers on the floor.
- b. Movement of files within the same building.
- c. Taking out photocopies for the concerned department.
- d. Filing of papers depending upon ability of the concerned worker.
- e. Any other suitable work assigned by the concerned officer.

The above jobs appear to have been assigned to the canteen workers in addition to their normal work relating to the canteen.

The Union has produced minutes of the meeting dt. 13-2-2001 of the Corporation with the Corporation Staff Union wherein at para No. 8 Director (P&A) has stated that on closure of the canteen all existing canteen boys will be absorbed in the Corporation's pay roll. This is reiterated in the letter of the Corporation placed at page 26. By letter of the Corporation placed at page 27 the benefit of warm clothing allowance of Rs.90 per year from the winter season of 1987 has been extended to the canteen workers. By letter of the Corporation placed at page 28 facility of house building loan has been given to the canteen workers.

The documents which have been referred to above are of the Corporation and the factual position that emerges in view of the above documents may be summarized as under:

- (a) The canteen workers have been working for about 30 years and despite change of contractors the canteen workers have continued to be employed uninterruptedly in the canteen.
- (b) The present contractor M/s. Saikripa Catering Services is there from 1995 and while entering into a contract with it the Corporation required M/s. Saikripa Catering Services to absorb the present canteen workers and this was also confirmed by the Corporation in a letter addressed to the Union that even though the canteen contractors might change from time to time services of the present canteen workers would be continued subject to superannuation age of 60 years.
- (c) In addition to their normal work relating to canteen the canteen workers have been assigned the jobs relating to movement of files, taking out photocopies for the concerned department, filing of papers depending upon the ability of the concerned worker and any other suitable work assigned

by the Corporation officer. Thus officers of the Corporation exercise supervision and control over the canteen workers.

- (d) The benefit of warm clothing allowance and facility of house building loan have been extended to the canteen workers.
- (e) It is clear from the minutes of the meeting dated 13-2-2001 of the Corporation with the Corporation Staff Union where the Director (P&A) of the Corporation agreed for absorption of the present canteen workers.
- (f) Wages of the canteen workers are reimbursed by the Corporation. Considering the above facts cumulatively I am of the opinion that the Contractor M/s. Saikripa Catering Services is an agent of the Corporation and canteen workers are in fact the employees of the Corporation.

Learned counsel for the Corporation has strenuously urged that since there is no abolition of contract labour in the canteen it is open to the Corporation to manage its canteen through a contractor and by virtue of the contract entered into by the Corporation with the contractor the canteen workers cannot be treated as employees of the Corporation. This argument would have held ground, if in reality the Corporation had engaged a contractor who was wholly independent but in this case it is clear that the contractor has been engaged only for the purpose of record and for all other practicable purposes the canteen workers are in fact the workmen of the Corporation.

The judgments relied on by learned counsel for the Corporation are based on different facts and the judgment of honourable Apex Court in (1999)6 SCC 439 (Indian Petro Chemicals Corporation Ltd. case) is fully applicable to the facts of the present case.

In view of the above discussion I have come to the conclusion that the contract under which the canteen workers were employed is a sham and bogus contract and the Union has justified its demand for absorption of the canteen workers.

Issues Nos. 1 and 2 are, therefore, decided in favour of the Union and against the Corporation.

ISSUE NO. 3 : First, present reference is not for abolition of contract labour system in the canteen and it is for absorption of canteen workers in the direct employment of the Corporation. Secondly, it has not been shown that the present canteen workers were parties in the writ petition filed in the Bombay High Court in which an order dt. 18-8-1999 was passed and subsequently before Central Advisory Committee, and as such it cannot be said that the present reference does not survive after the Bombay High Court order dt. 18-8-1999 and subsequent decision

of the Central Advisory Committee dt. 7-4-2000 and the order of Govt. of India dtd. 20-8-2000. Issue No. 3 is, therefore, decided against the Corporation and in favour of the Union.

ISSUE NO. 4 : The two parties to the dispute have been clearly indicated namely: (1) the Corporation and (2) the canteen workers. The objection that the Union does not have the authority to espouse the claim of the canteen workers is a mere technicality which does not affect the competence of the order of reference. The contract workers can directly approach an industrial adjudicator in regard to the question whether the contract is genuine or mere camouflage. In this view of the matter I am unable to understand why the Union cannot espouse the claim of the canteen workers. This issue is decided against the Corporation and in favour of the Union.

ISSUE NO. 5 : The canteen has not been closed down as has been stated in the written statement and as has been admitted by the witness of the Corporation Dnyanesh Kanvinde. The contract with M/s. Saikripa Catering Services has been renewed up to 2011 and though lunch service has been stopped but supply of tea and coffee still continues. In view of this the agreement between the first party Corporation and its employees through Shipping Corporation of India Employees Union dt. 14-1-2002 is of no relevance here and the question of absorbing the canteen workers in the Corporation is to be decided on merits. The issue is decided as above.

ISSUE NO. 6 : Such canteen workers who are still in job as on today are entitled to absorption and regularization by the Corporation subject to having been found medically fit and below the age of superannuation.

ORDER

Consequently, the first party Corporation is directed to absorb and regularize such canteen workers who are still in job as on today subject to having been found medically fit and below the age of superannuation. The Corporation shall implement this order within a period of two months from the date of this award.

An award is made accordingly.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 20 अप्रैल, 2011

का. आ. 1329.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 67/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-2011 को प्राप्त हुआ था।

[सं. एल-22012/233/2005-आई आर(सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 20th April, 2011

S. O. 1329.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 67/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Dhoptala Sub Area of Balarpur Area, WCL and their workmen, received by the Central Government on 20-4-2011.

[No. L-22012/233/2005-IR(CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/67/2006

Date : 5-4-2011.

Party No. 1 : The Sub Area Manager,
Dhoptala Sub Area of WCL, Post Sasti,
Tah. Rajura, Chandrapur.

Versus

Party No. 2 : The Secretary,
Sanyukta Koyla Mazdoor Sangh (AITUC),
Ballarpur Branch, C/o Shri Sakinala
Narsayya, Opp. WCL, Guest House,
Rajura, Sasti Road, Chandrapur.

AWARD

(Dated: 5th April, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), the Central Government has referred the industrial dispute between the employers, in relation to the management of Dhoptala Sub Area of WCL and their workman, Shri Ramcharan Mohabe for adjudication, as per letter No.L-22012/233/2005-IR(CM-II) dated 2-8-2006, with the following schedule :—

“Whether the action of the management of Western Coalfields Limited, Dhoptala Sub Area in not correcting the date of birth of Shri Ramcharan Mohabe, Mining Sirdar as 17-3-1954 instead of 1-7-1951 in the Form "B" Register is legal and justified? If not, to what relief is the workman entitled?”

2. Being noticed, the union, "Sanyukta Koyla Mazdoor Sangh (AITUC)" ("the union" in short) on behalf of the workman, Shri Ramcharan Mohabe filed the statement of claim and the management of the Sub Area Manager, Dhoptala Sub Area of Western Coalfields Limited ("the Party No.1" in short) filed its written statement.

3. The case as projected by the union in the statement of claim is that the workman, Shri Ramcharan Mohabe ("the workman" in short) was appointed on 16-9-75 as a labourer by the Party No.1 and he appeared in the examination conducted by the management for the post of Mining Sirdar in the year 1991 and he was selected for the post of Mining Sirdar w.e.f. 12-12-1991 and the management issued a certificate of Mining Sirdar to the workman on 4-1-1993 containing the date of birth of the workman as 17-3-1954 and the said certificate is an authentic document of the management and the workman was transferred to Ballarpur Area on 11-11-92 and at that time, the workman noticed that his date of birth has been wrongly mentioned by the concerned clerk in Form B register as 1-7-51 instead of 17-3-54 and when the workman came to know about the wrong recording of his date of birth by the management in his service book, he started to give representations requesting the Party No. 1 to correct the date of birth in "Form B" register and the workman gave representations on 12-1-93, 15-12-94, 9-8-95, 25-3-95, 8-11-95, 19-12-97 and 1-7-98 and though the Party No. 1 received the representations, refused to correct the date birth on the ground that the excerpt of Form No. B had been circulated among the workmen in the year 1987 and after verification of the same by the workman, his thumb impression was taken and as had not objected the date of birth as recorded in the "Form B" register at the relevant time he is not entitled for change of the date of birth as mentioned in the said register and the reason assigned by the management was apparently false and baseless, as the duplicate copy of "Form B" register was not supplied to him at any time and the concerned clerk of Party No.1 took only the thumb impression on the service excerpt in the year 1987 and it was the duty of the management to mention the correct date of birth as the same is very important for the service career of the workman and due to wrong recording of the date of birth, the workman will suffer great loss and at the time of noting the date of birth in the service record of the concerned employee, the Party No.1 is required to insist for production of proof of the date of birth as issued by the recognized institute or the school, but in the case of the workman, while recording the date of birth as 1-7-51, no document was demanded by the Party No.1 and the Party No.1 acted against the rules and the procedure required for maintaining the correct record of the date of birth of the employee. The further case of the union is that the Party No.1 has mentioned 2 to 3 different dates of birth of the workman, in its own documents and the correct date of birth of the workman has been mentioned in the Mining Sirdar Certificate, identity card and payment slip etc. and the transfer certificate issued by the school authorities also shows the date of birth of the workman as 17-3-54 and before the Assistant Labour Commissioner, the Party No.1 had mentioned the date of birth of the workman as 1-7-53 in some of the documents which were submitted vide letter

dt. 5-6-2005 and when the workman had filed authentic documents in support of the proof of his date of birth as 17-3-54, the management had no other option but to accept the version of the workman and the workman had also filed affidavit on 15-12-97 and also gave declaration that his correct date of birth is 17-3-54, but the Party No.1 remained adamant and did not correct the date of birth, so the industrial dispute was raised before the Assistant Labour Commissioner (Central), Chandrapur and, as the conciliation failed, failure report was submitted to the Central Government and the Central Government referred the dispute for adjudication. The union has prayed to give a direction to Party No.1 to change the date of birth of the workman from 1-7-51 to 17-3-54 in "Form B" register and to give him all consequential benefits.

4. The Party No.1 in its written statement has pleaded that the proceedings as framed and filed is not maintainable, as the reference is not only vague but also sham and frivolous and as the workman has not given the entire facts before the Tribunal. It is also pleaded by the Party No.1 that the recorded date of birth of the workman is 1-7-51, which was recorded in the service book, as per the provisions of law, on 15-10-75, the date of appointment of the workman and such date of birth has been recorded in the service book and "Form B" Register, which are statutory registers and so also in the nomination form of CMPF and a notice board was also displayed in terms of NCWA between the Trade union and the management in September, 81 calling objections from the workmen regarding age dispute and the present workman at that relevant time did not turn up with any grievance regarding any mistake in recording his date of birth and the claim of the workman about his date of birth to be 17-3-1954, is nothing but after thought and the workman produced the certificate of August/September, 1992 and school leaving certificate dt. 24-7-87, after his appointment and therefore cannot be relied upon and if the said documents were actually in possession of the workman, then he should have produced the same at the time of his appointment and nothing has been placed on record by the workman to show as to what restrained him to submit the documents at the time of his appointment in the year 1975 and the workman is not entitled for any relief as he is claiming equity without showing any reason or pointing out any eligibility thereto and he has moved the Court at a belated stage for unlawful gains. It is further pleaded by the Party No.1 that the service book and other documents which were prepared at the time of appointment and earlier to the representations made by the workman bear his signatures and the Party No.1 rightly refused for correction of the date of birth and the date of birth as mentioned in the service record of the workman is as per the disclosure made by him at the time of his appointment and the Mining Sirdar Certificate is also a subsequent document and the information made in the

said certificate are as per the incorrect information given by the workman willfully and the identity card and payment slip were also prepared by the concerned clerk on the basis of the informations supplied by the workman and the letter dt.5-6-2005 is specifically denied and the workman kept mum for a period of over 17 years and all the documents produced by him are fabricated and forged for unlawful gains and cannot be looked into and therefore the workman is not entitled for any relief.

5. The workman examined himself as a witness in support of his claim, besides placing reliance on documentary evidence. Party No.1 did not adduce any oral evidence but relied on documentary evidence in support of its case.

The workman has reiterated the facts mentioned in the statement of claim, in his examination-in-chief, which is on affidavit. However, in his cross-examination, he has stated that he passed Class-X in the year 1992 and for reading in school he had to attend the school regularly and he appeared in Class-X examination in the year 1992 as a private candidate and his name and date of birth as mentioned in the certificate for passing of Class-X examination have been made according to the informations given by him in the form required to be filled up for appearing in the examination. He has also admitted that till the year 1980, he was putting his LTI on the official papers. It is further admitted by the workman that he knows about service book and his date of appointment has been mentioned as 15-10-75 in the service book and in 1987, with consultation of the workers' union, the WCL had given a circular, asking the workers to finalise the dispute regarding the date of birth and requested the workers to submit their certificates showing their date of birth for that purpose and in case of having no certificate, to appear before the medical board for determination of their age and till the year 1993, he had not filed any written application before the authority regarding the mistake in his date of birth and in the year 1995, he was intimated by the WCL that his case cannot be considered regarding the change of his date of birth and in the year 2005, for the first time his union raised the dispute regarding his date of birth and from 1995 till 2005, he did not file any appeal before the competent authorities against the decision of the WCL for not correcting his date of birth and he does not have any document having his signature prior to 1987. The workman has also admitted that the Sirdar Certificate filed by him does not contain the signature of any of the authorities of the WCL and he had filled up the form required to be submitted for appearing in the Sirdar examination and he appeared in the Sirdar's Certificate Examination on 12-12-91 and the information given in the Sirdar certificate are based on his informations given in the form and in that certificate, he had put his LTI.

It is necessary to mention here that during the cross-examination of the workman, the xerox copy of the first two pages of his service book, xerox copy of the Form B register, xerox copy of the service book prepared at the time of transfer of the workman to Ballarpur and the xerox copy of the form submitted by the workman on 19-6-87 showing the particulars of his nominees and his date of retirement and the declaration submitted by him under Coal Mines Provident Fund Act on 29-12-90 were confronted to him and the workman admitted the said copies of the documents to be true copies of the originals and accordingly the said documents were marked as Ext. M-I to M-V.

6. At the time of argument, it was submitted on behalf of the workman that the workman was appointed on 16-9-75 and on 11-11-92, he was transferred to Ballarpur area and at that time, he noticed the mistake in recording of his date of birth as 1-7-51 instead of 17-3-54 in his service records and requested the Party No.1 repeatedly for correction of his date of birth and at the time of entry of the workman into service, the Party No.1 should have recorded his date of birth as 17-3-54, as the workman had supplied the transfer certificate of school and the Party No.1 issued the Sirdar Certificate, identity card and payment slips mentioning the date of birth of the workman as 17-3-54 and as such, the workman was under the impression that his date of birth has been correctly recorded and but, the Party No.1 had made the wrong entry, without any basis and though the workman in 1992 requested for correction of his date of birth, by producing the school record for the second time, the Party No. 1 did not correct the date of birth and there is no period of limitation prescribed for correction of date of birth and as such, the Party No. 1 is duty bound to correct the erroneous date of birth of the workman mentioned in his service records and the workman was able to sign his name at the time of appointment and he had produced the school certificate before the Party No.1, but Party No.1 without verifying the school leaving certificate, wrongly mentioned the date of birth and in his cross-examination, he has stated that he was 18 to 19 years of age at the time of his joining the service in 1975, which means that his year of birth is 1954 and according to his school record, his date of birth is 17-3-54 and in 1992, the workman passed Class-X, so he put his signature in English in the new service book, which was opened, when he was transferred to Ballarpur and Ext. M-V has no evidentiary value, as the same was not proved by examining the author of the same and in view of the documents filed by the workman, the Party No.1 is required to correct the date of birth of the workman.

7. On the other hand, it was argued on behalf of the management that the reference is not maintainable and in spite of various opportunities, the workman had not approached to correct his date of birth at the correct time and after manufacturing the documents, he approached

the management at the fag end of his employment and as such, the claim cannot be considered and the identity card and other documents had been issued by the concerned officer without verifying the original service book and the school certificate has been issued near after 18 years from the date of appointment and therefore the documents have no legal value in the eye of law and none of the documents are proved and exhibited on behalf of the workman, though the documents are filed on record and from the cross-examination of the workman, it is clear that his date of birth has been properly recorded. It was further argued that the statement of claim is liable to be rejected as the same has not been filed in the individual capacity as mandate in the law but has been filed through the union and the claim is hit by law of limitation, delay and laches and on that ground also, the claim is not maintainable. In support of such contentions, reliance has been placed on the decisions reported in 2005 DGLS (Soft) 217 (U.P. Madhyamik Shiksha Parishad Vs. Raj Kumar Agnihotri), 2001 DGLS (Soft) 482 (Hindustan Lever Limited Vs. S.M. Jadhav), 2000 DGLS (Soft) 1557 (General Manager, Bharat Cooking Coal Ltd. Vs. Shiv Kumar Dushad), 2006 DGLS (Soft) 335 (Ravinder Singh Gokhi Vs. State of Uttar Pradesh), 2007 (5) Born CR 366 (Kakasaheb Shidu Mhaske Vs. Municipal Corporation of Greater Mumbai) and 1998 (2) Mh. L.J. (State of Mah. Vs. Dnyaneshwar Rakmaji Aher).

So, keeping in view the principles enunciated by the Hon'ble Apex Courts and the Hon'ble Courts in the decisions mentioned above, the present case at hand is to be considered.

8. First of all, I will take up the contentions raised on behalf of the workman that at the time of entry of the workman into service, he had supplied his school leaving certificate and as such, the Party No. 1 should have recorded his date of birth as 17-3-54, but without any basis, the Party No. 1 recorded the date of birth as 1-7-51 and the workman came to know about such mistake on 11-11-92, when he was transferred to Ballarpur area. After going through the record including the statement of claim, written statement and evidence adduced by the parties, it is found that there is no force in the contentions raised by the workman, as because, neither in the statement of claim nor in his evidence on affidavit, the workman has stated that at the time of his appointment, the school leaving certificate was produced. There is no pleading or evidence on record to show that in spite of production of the school leaving certificate, the date of birth of the workman was wrongly recorded by the Party No. 1. During his cross-examination, the workman has admitted that Ext. M-I is the copy of his service book and Ext. M-II is the copy of Form-B register. On perusal of Exts. M-I and M-II, it is found that in both the said documents, the date of birth of the workman has been mentioned as 1-7-51 and the workman has put his L.T.I. on the same. The said facts show that the workman represented himself to be an illiterate person and put his

L.T.I. on the said documents. If, in fact, the workman had submitted his school leaving certificate at the time of appointment showing he had read upto Class-V, before joining the service, then he should not have put his L. T. I. on the documents. It is not the case of the workman that he was asked by the Party No. 1 to put his L.T.I. on Exts. M-I and M-II and was not allowed to sign the same. Moreover, on perusal of the school leaving certificate, (copy, not the original) it is found that the same was obtained on 24-7-87, which completely belies the claim of the workman that copy of the said school leaving certificate was produced by him at the time of his appointment before Party No. 1 in the year 1975.

The workman in his cross-examination has admitted that on 19-6-87, he had submitted a form (Ext. M-IV) showing the particulars of his nominees and his retirement. He has also admitted that he had submitted the declaration under Coal Mines Provident Fund Act, (Ext. M-V) on 29-12-90, nominating his wife, Samiyabai as his nominee. It was contended on behalf of the workman that Ext. M-V has no evidentiary value, as the same is not in the handwriting of the workman and he put his signature on blank form and some official of Party No. 1 filled up the form and the same was not proved by examining the author of the same. Such contention cannot be entertained, in absence of any material on record. The workman in his evidence has also not stated that his signature was taken on blank form and the form was filled up by any official of Party No. 1. Rather, he has admitted to have filed the same by himself. On perusal of Exts. M-IV and M-V, it is found that the workman has mentioned his date of birth in both the documents as 1-7-1951 (1st July, Nineteen fifty one). So, it is clear from the documents Exts. M-I to M-V that the workman had given his date of birth as 1-7-1951, at the time of entering into service and he knew that his date of birth has been mentioned in the Form-B register and service book as 1-7-1951 from the very date of his joining service and prior to 1992. It is not known as to why the workman pretended to be an illiterate person, if actually he had already passed Class-V before entering into service and did not produce the school leaving certificate before Party No. 1 in support of his date of birth and qualification.

9. It is not disputed by the parties that there was implementation of instruction No. 76 issued by the JBCCI for settlement of age disputes of the workmen in 1987-88 and service excerpts were supplied to the workmen to raise objection, in case of any dispute regarding their respective age and other informations in the same. According to the own admission of the workman, in 1987, with consultation of the workers' union, the WCL had given a circular, asking the workers to finalise the dispute regarding the date of birth and requested the workers to submit their certificates showing their date of birth for the said purpose and in case of having no certificate, to appear before the "Medical Board" for determination of their age and till the year 1993,

he had not filed any written application before the authority regarding the mistake in his date of birth and in 1995, the Party No.1 intimated him that his case cannot be considered regarding change of date of birth. From the said admission of the workman, it is clear that the workman did not raise any objection regarding his date of birth as mentioned in his service records, even after the circular given by the Party No.1 and supply of the service excerpts in 19987-88. Rather, on 29-12-1990, he submitted Ext.M-V, showing his date of birth as 1-7-1951.

10. It is found that the workman has filed a mark sheet issued by High School Certificate (open school) Examination (10+2), 1992. The said mark sheet shows the date of birth of the workman as 17-3-1954. It is necessary to mention that the said mark sheet shows that the workman appeared in the examination of Class- X on correspondence course and failed in the examination. However, in his cross-examination, the workman has stated that he appeared in the examination as a regular student of Betul High School and he passed Class-X in 1992. By cross-checking the said statements of the workman with the mark sheet, it is found that his statements are not true. The workman has also admitted that the informations given in the mark sheet are in accordance with the informations given by him in the form required to be filled up for appearing in the examination. Though in the Sirdar Certificate, the date of birth of the workman has been mentioned as 17-3-1954, the workman has admitted in his cross-examination that the informations given in the said certificate are also in accordance with the informations given by him in the form required to be filled up for appearing in the Sirdar examination. Hence, the mark sheet and Sirdar Certificate have no evidentiary value and are of no help to the workman. The other documents, the copy of the identity card, two pay slips, one of December, 1997 and the other of August, 2000 and the copy of the medical examination report filed by the workman in support of his claim that his date of birth has been mentioned as 17-3-1954 are not authentic documents in support of the claim of date of birth and as such, the same are of no help to the workman and more so, when the workman himself has mentioned his date of birth as 1-7-1951 in Exts.M- IV and M-V. Hence it is found that the Party No.1 rightly did not correct the date of birth of the workman from 1-7-1951 to 17-3-1954. Hence, it is ordered:

ORDER

The action of the management of Western Coalfields Limited, Dhoptala Sub Area in not correcting the date of birth of Sh. Ramcharan Mohabe, Mining Sirdar as 17-3-1954 instead of 1-7-1951 in the Form "B" Register is legal and justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 20 अप्रैल, 2011

का. आ. 1330.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्दल रबड़ बोर्ड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर, के पंचाट (संदर्भ संख्या 11/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-2011 को प्राप्त हुआ था।

[सं. एल-42012/291/2002-आई आर(सीएम-II)]

डॉ. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 20th April, 2011

S. O. 1330.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.11/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the Industrial Dispute between the management of Rubber Board, RRII, and their workman, which was received by the Central Government on 20-04-2011.

[No. L-42012/291/2002-IR(CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present :

Shri J. Srivastava,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 11/2003

Date of Passing Award—6th April, 2011

Between :

The Management of the Officer-in-charge,
Rubber Board, RRII, Dhenkanal, Orissa.

...1st Party-Management

AND

Their workmen represented through the
General Secretary, Annapurnapur Rubber
Board Workers Union, Kadalipal, Aluajharan,
Dhenkanal, Orissa.

...2nd Party-Union.

APPEARANCES:

None : For the 1st Party
Management

None : For the 2nd Party
Union

AWARD

The Government of India in the Ministry of Labour has referred the present industrial dispute existing between the employers in relation to the Management of Rubber Board, RRII and their workmen in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide their letter No. L-42012/291/2002-IR(CM-II) dated 17-4-2003.

2. The dispute under reference has been mentioned under the schedule of the letter of reference which is reproduced below :—

“Whether the action of the management of RRII, Rubber Board in relation to the RR Section, Dhenkanal in terminating the services of S/Shri Labanidhar Pradhan, Antaryami Sahoo, Srinibas Sahu with effect from 8-7-99 and S/Shri Muralidhar Sahoo, Maheswar Sahoo, Gati Nayak, with effect from 13-7-1999 without following due procedure of law is legal and justified. If not, to what relief the concerned workmen are entitled to?”

3. Subsequently a corrigendum was received from the Government of India in the Ministry of Labour vide their letter of even number dated 15-12-2003 whereby earlier schedule was substituted by the following words :

“Whether the action of the management of RRII, Rubber Board in relation to their RR Section, Dhenkanal in terminating the services of S/Shri Labanidhar Pradhan, Antaryami Sahoo, Srinibas Sahu, Muralidhar Sahoo, Maheswar Sahoo & Gati Nayak with effect from 9-8-2000 without following due procedure of law is legal and justified? If not, to what relief the concerned workmen are entitled ?

4. The 2nd Party-Union espousing the cause of the disputant-workmen has filed the statement of claim in which it has been stated that the disputant-workmen engaged in the Kadalipal Rubber Plantation are members of Annapurnapur Rubber Board Workers Union, Dhenkanal. The disputant-workmen were engaged in the said plantation in the year 1991. They were designated as unskilled workers and were paid the statutory minimum rate of wages for the said category. Although the workmen rendered continuous service for nearly eight hours and also performed the skilled job of tapping from 1998 onwards, they were not treated as regular employees of the 1st Party-Management and were not extended legitimate service benefits. The 2nd Party-Union demanded their regularization and the dispute with regard to regularization was referred to the Industrial Tribunal as I. D. Case No. 27/1998. But the 1st Party-Management meanwhile illegally and arbitrarily changed the mode of wage payment and working hours of the disputant-workmen by notice dated 7-7-1999 and 13-7-1999. In the said notices they were intimated to report for tapping work from 5 A.M. onwards

and they will be paid their wages in proportion to the number of trees tapped by them on a day. The above change in the service conditions of the workmen was completely illegal and unjustified being violative of Section 9-A of the Industrial Disputes Act. The Management, on protest, did not withdraw the same and did not allow the disputant-workmen to perform any work though they remained present. Ultimately the workmen agreed to tap 300 trees per day but the Officer-in-Charge imposed a new condition that in addition to tapping, the workers would also have to do the processing work. The workmen refused to perform these two works as they would altogether require to work for at least twelve hours a day. The workmen offered their services to the Management to clear uprooted trees in the farm after super cyclone came on 29-10-1999, but the Officer-in-charge got the work done by engaging as many as 30 outsiders. It was thus apparent that the Management had no intention of retaining the services of the workmen. As such the workmen raised an industrial dispute before the Asst. Labour Commissioner (Central), Bhubaneswar on 8-11-1999 alleging refusal of employment by the Management. In course of conciliation proceedings the Management took the plea that the workmen had themselves abandoned their work. After failure of the conciliation proceedings, the matter was referred to this Tribunal in the form of I.D. Case No. 6/2000. The Union has also raised an industrial dispute challenging the unilateral change in the mode of wage payment and the hours of work which is pending in this Tribunal in the form of Tr. I. D. Case No. 320/2001. Thus the workmen had been refused employment since July, 1999. The disciplinary proceeding started by the Management was an eye wash and intended to hoodwink the charges. In the above background the action of the Management in terminating the services of the workmen with effect from 9-8-2000 on the ground of unauthorized absence is not only illegal but also highly unjustified. As such the disputant-workmen need to be reinstated in service with full back wages and other benefits.

5. The 1st Party-Management has stated in reply in his written statement that tapping is a seasonal work which is usually taken up during the period of September to February each year depending on climatic conditions. Tapping work is usually done during morning hour starting from 5 to 6 A.M. The disputant-workmen have been doing the tapping work since last two seasons but suddenly they followed go slow tactic and attended their duties at their whim. They hardly did job for four to five hours daily. As a result, the organization sustained numerous loss. Therefore for better performance a standard norm of tapping 300 trees in a day by each worker was fixed by the Management on all India basis. Prior to commencement of tapping in every season some preliminary works are taken up by trained (six) workers. Therefore it is within the

knowledge of the workmen when the tapping work is taken up. The Notice in question was only for intimation of day and time of commencement of tapping work. Thus there is no change in service condition as alleged by the 2nd Party-Union. The 2nd disputant-workmen, namely S/Shri Labanidhar Pradhan, Antaryami Sahoo and Srinivas Sahoo remained absent from their duties since 8-7-1999 and other three namely S/Shri Muralidhar Sahoo, Maheswar Sahoo and Gati Nayak remained absent from their duties since 13-7-1999 without sanction of leave. They were issued several notices to resume their duties but they did not respond and it was ultimately presumed that they have voluntarily abandoned their job. As a matter of abundant precaution the Management issued charge-sheet against each of the disputant-workmen and called for their explanation and conducted domestic enquiry, but they refused to attend the enquiry. The enquiry was held *ex parte* and consequently on proof of charges all the six workmen were terminated from service with effect from 9-8-2000. I.D. Case No. 6/2000, Tr. I.D. Case No. 320/2001, Tr. I.D. Misc. Case No. 19/2001 and Tr. I.D. Misc. Case No. 26/2001 to 31/2001 are pending in this regard in this Tribunal. The disputant-workmen have obtained stay order from the Hon'ble High Court of Orissa in I.D. Case No. 6/2000 and Tr. I.D. Case No. 320/2001 as a result of which the proceedings of all the above cases are stayed since long. It is needless to mention that each worker is paid for work. He is required to perform the minimum targeted duty of eight hours in a day, else proportional deduction of wages is liable to be made under the Payment of Wages Act. Tapping of 300 trees and processing work require only six to seven hours of work in the farm of Kadalipal. As such the allegations of the 2nd Party-workmen that tapping of 300 trees and processing work require 12 hours in a day is false and fabricated. The allegation of change of service condition is only a false pretext for remaining absent and an after-thought idea for raising the dispute. The disputant-workmen have been terminated from service by way of disciplinary proceedings drawn against each of them following the principles of natural justice. Since the disputant-workmen were absent from duty since July, 1999, they are not entitled to any wages from the date of their absence to the date of termination on the principles of no work no pay.

6. On the basis of the pleadings the following issues were framed :

ISSUES

1. Whether the action of the Management of RRII, Rubber Board in relation to their RR section, Dhenkanal in terminating the services of S/Shri Labanidhar Pradhan, Antaryami Sahoo, Srinivas Sahu, Maralidhar Sahoo, Maheshwar Sahoo & Gati Nayak with effect from 9-8-2000 without following due procedure of law is legal and justified?

2. If not, to what relief the concerned workmen are entitled?

7. After filing of the statement of claim by the 2nd Party-Union and written statement by the 1st Party-Management parties remained absent on most of the dates without any cause or justification. The case lingered for settlement of issues almost for four and half years. Notices were used to be issued but no proper steps were taken by the parties to proceed with the case. Ultimately issues were framed on 31-5-2010 on the basis of the pleadings of the parties and the 2nd Party-Union was called upon to lead evidence. But no evidence was led by the 2nd Party-Union. In turn the 1st Party-Management has also failed to adduce any evidence. Both the parties all the time used to remain absent. As such the reference is being decided without any evidence of the parties.

FINDINGS

ISSUE NO.1

8. As the burden to prove this issue preliminarily lies on the 2nd Party-Union and no evidence on its behalf has been led to show as to how the termination of service of the disputant-workmen was made illegally without following due process of law, it cannot be held that the action of the 1st Party-Management in terminating the services of the disputant-workmen is illegal and unjustified and such action was taken without following due process of law. The contention of the 2nd Party-Union is that the 1st Party-Management has changed the service conditions of the disputant-workmen and when refused to follow the dictates of the Management, the Management did not allow them to join duty even though the disputant-workmen presented themselves for work every day at the Farm. The 1st Party-Management treated their alleged absence as abandonment of service and that resulted in start of disciplinary proceedings and conduct of departmental enquiry against the disputant-workmen. The disputant-workmen did not attend the enquiry, which then proceeded *ex parte* and on proof of the charges, the disputant-workmen were terminated from service with effect from 9-8-2000. The disputant-workmen could not establish that due procedure of law has not been followed in terminating their services. As such their contention raised in this issue does not hold good. *Prima-facie* there appears no illegality in conducting the departmental enquiry. Therefore this issue is decided against the 2nd Party-Union.

ISSUE NO. II

9. Since the 2nd Party-Union has failed to prove its case against the 1st Party-Management it is not entitled to get any relief prayed for in respect to the disputant-workman.

10. Reference is answered accordingly.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 20 अप्रैल, 2011

का.आ. 1331.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल एच. आई. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 39/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-2011 को प्राप्त हुआ था।

[सं. एल-42012/6/2000-आईआर (सी- II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 20th April, 2011

S.O. 1331.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of HIL and their workmen, received by the Central Government on 20-4-2011.

[No. L-42012/6/2000-IR(C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/39/2001 Date: 12-4-2011

Party No. 1

The Regional Sales Manager,
Hindustan Insecticides Ltd,
Dharampeth,
Nagpur- 440010

Versus

Party No. 2

The General Secretary,
Nagpur Kamgar Sungh,
Gujarwada Kothi Road, Mahal,
Nagpur.

AWARD

(Dated : 12th April, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Hindustan Insecticides Ltd. and their workman, Smt. Indira Gulabrao Puneekar for adjudication, as per letter vide order No. L-42012/6/2000-IR (C-II) dated 14-06-2001 with the following schedule :—

"Whether the action of the management in not regularizing the services of Smt. Indira Gulabrao Puneekar as 'Faras' is legal and justified? If not, to what relief Smt. Indira Gulabrao Puneekar is entitled?"

2. Being noticed, the union, "Nagpur Kamgar Sungh" ("the union" in short) on behalf of the workman, Smt. Indira Gulabrao Puneekar filed the statement of claim and the management of the Regional Sales Manager, Hindustan Insecticides Ltd., ("the Party No. 1" in short) filed its written statement.

3. The case of the union is that the workman after passing 7th standard, came to be appointed as a Faras in the year 1984, by Party No. 1 and initially she was paid Rs. 100 per month towards her salary, and the same was increased to Rs. 150 per month in the year 1998 and from the date of her appointment, she worked regularly with clean and excellent service record and she was filling water, sweeping the floor, cleaning tables and the like for about 7 hours a day and in spite of the same, her service was not regularized and she had completed 240 days of service in every year and thus was entitled for regularization in service and also to the benefits, with retrospective effect, as per the standing orders and the Party No. 1 is a Government undertaking and the provisions of the Act and standing orders are applicable to it and the workman submitted representations dated 23-8-96, 28-4-98 and 23-1-99 requesting the Party No.1 to consider her case for regularization in service but her request was not considered and when she sent a notice through her counsel on 11-2-2000, the same evoked a negative response. It is prayed on behalf of the workman that she be regularized in service with consequential benefits.

4. The Party No.1 in its written statement has pleaded inter-alia that it is a Government of India enterprises having its office at Dharampeth, Nagpur and the Party No. 2, who was working in the nearby houses in the locality, where its office is situated, requested to permit her for filling water and cleaning tables in its office and considering her request sympathetically, she was allowed to work, even though there was a Peon to do the said works and though there was no post available for considering her claim and the works entrusted to the Party No. 2 were lasting for half an hour and she was getting Rs.150 per month and the party No.2 was a casual daily wagger and was permitted only for filling water and cleaning the tables and she cannot claim herself to be the workman and she is not entitled for claiming regularisation in service and the post of Peon in its office is to be filled in by appropriate selection board and for that the qualification has been prescribed and the Party No.2 had neither entered into services through proper channel nor she is qualified for securing the appointment or regularization in the post and she was never appointed against any vacant or

sanction post and as such, there is no question of regularization in service and the claim of the Party No. 2 that she was working for 7 hours a day is quite false, as the work of storing of water for drinking purpose, sweeping the floor and cleaning four tables does not require 7 hours a day and as the Party No. 2 even cannot be termed as a part time employee, the question of application of the provisions of working for 240 days or the other provisions does not arise and appropriate reply was given by it to the representations made by the Party No. 2 and therefore she is not entitled for any relief.

5. The parties have led oral evidence in supported of their respective cases.

The workman, Smt. Indira Gualbrao Punekar examined herself in support of her case, whereas, two witnesses, namely, Shri Panchamlal and Shri Raju Lochan Kalele have been examined on behalf of the Party No. 1.

In her examination-in-chief, which is on affidavit, the workman has reiterated the facts mentioned in the statement of claim. However, in her cross-examination, she has stated that she was appointed by a written order, but she has not filed the same on record and she used to work in the house of Shri M. Kohile. She has denied the suggestion that she was working as maid servants in the neighbouring houses.

The first witness from the side of Party No. 1 is Shri Panchamlal, the Regional Sales Manager of Party No. 1. He has stated that the Party No. 2 was a casual daily wagger and was engaged for filling water and cleaning the tables, on her request and she was doing such works in the nearby houses and the duration of her work was only for half an hour and she is not entitled to claim herself as a workman and her engagement was not in accordance with the Rules for appointment and her appointment was also not against any permanent or vacant post. In his cross-examination, this witness has stated that no appointment order was given to the petitioner as there was no post and she was doing the work for one hour like fetching of water and cleaning the office, because she was doing similar work in the nearby houses and as the Peon was busy in other work and was not doing the work of fetching water and cleaning the office, she was asked to do the work and they were paying her for the same as other house-owners used to pay. This witness has admitted that during the pendency of the proceeding, she was discontinued and another person was engaged by them for doing the said works and the petitioner was working since the time of his predecessor and also worked during his service tenure and he was there for 7 to 8 years.

The second witness examined by Party No. 1 is Shri Raju Lochan Kalele, the house owner, in whose house, the office of the Party No. 1 was functioning and admittedly, in whose house, the workman was working as

a maid servant. Shri Raju has stated that Smt. Indira Gulabrao Punekar was working as a maid servant in his house on monthly basis from January, 1983 to February, 1987 and he was paying Rs. 150 per month to her and she also used to serve in various houses of his locality as maid servant to fill water and to clean the tables in the office of Party No. 1 and she was working for 20 to 30 minutes in a day in the office of Party No. 1 to fill water and clean the tables. In the cross-examination of this witness, it has been brought out that the petitioner was working as maid servant in his house for about 1/2 hour to 3/4 hour and at that time, the office of the Party No. 1 was in his house and the office of the Party No. 1 functioned for about 18 years in his house and the petitioner was doing the work of filling water and cleaning the office for about 20 minutes and besides in his house, the petitioner was working in the houses of his neighbours, Shri Dange and Shri Nene and also in some other houses, whose names he does not know.

6. At the time of argument, it was submitted by the learned advocate for the petitioner that the petitioner was working continuously as a 'Faras' with the Party No. 1 since 1984 and both the witnesses examined by the Party No. 1 have admitted the same and during the pendency of the reference, the Party No. 1 did not provide her work and disengaged her and the evidence of M.W. 2, Shri Raju Kalele on affidavit is quite false and as Party No. 1 did not produce any rent receipt or rent agreement with Shri Raju Kalele and the vouchers under which payments were made to the petitioner and did not examine the Peon working with it, the claim of the Party No. 1 cannot be believed. It was also submitted that the petitioner is entitled for reinstatement in service with continuity and full back wages and the judgement of the Hon'ble Apex Court in Umadevi's case is not applicable to Industrial law in view of the judgement of the Hon'ble Apex Court as reported in M.S.R.T.C. Vs. Casteribe Rajya Parivahan Karmchhari Sanghatana (2009) 8 SCC-556.

7. It was argued by the learned advocate for the Party No. 1 that the Party No. 1 has closed down its business at Nagpur since the year 2007 and the Party No. 1 is a Government of India Enterprises and the petitioner, who was doing the work of filling water in the nearby houses of the office of Party No. 1, requested the Party No. 1 to engage her for filling water and to clean the tables in the office and considering her request sympathetically, through a Peon for the same was there, she was allowed to do the said work and she was working only for half an hour daily and she was a casual daily wagger and she cannot claim herself to be a workman and as such, she is not entitled to claim regularization and the appointment of the workman was not in accordance with the rules for appointment and she has also no qualification as required for such appointment and she was not appointed against any vacant or sanctioned post and in view of the judgement

of the Hon'ble Apex Court reported in 2006(4) SCC-1 (Secretary, State of Karnataka Vrs Umadevi), the claim of the petitioner is not maintainable.

8. From the pleadings of the parties and evidence on record, it is found that the workman started working in the office of the Party No. 1. In the year 1984 and she worked continuously and during pendency of the reference, her service was terminated i.e. on 1-6-2002.

The first objection raised by the Party No.1 is that Smt. Indira is not a workman, as defined under Section 2(f) of the Act and as such, she is not entitled for claiming regularization in service. However, I find no force in the said object as because the Party No. 1 has admitted that Smt. Indira was working in the office for filing water, cleaning the tables and sweeping the office and from the same, it can be held that she was a part time workman and as such, the provisions of the Act are applicable to her. However, it is found that neither the union has mentioned anything in the statement of claim nor the workman has stated in her evidence as to how she was appointed with the Party No. 1. It is also found from record that the appointment of the workman was not in accordance with the Rules and she was not given any appointment order, though she has stated in her cross-examination that her appointment was by an appointment order.

According to the Party No. 1, in view of the principles enunciated in the decision reported 2006 (4) SSC-1 (supra), the workman is not entitled for regularization in service, whereas, according to the workman, she is entitled for regularization in service, in view of the decision reported in (2009) 8 SCC 556 (supra).

The Hon'ble Apex Court in the decision (2009) 8 SCC 556 (supra) while deciding the case filed under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, (MRTU Act) have held that provisions of MRTU Act have not been denuded of the statutory status by the constitution bench decision in Umadevi's case and the Industrial and Labour Courts enjoyed wide powers under Section 30 (1) (b) and this includes power to accord permanency to employees effected by unfair labour practice. It is clear from the principles enunciated by the Hon'ble Apex Courts that under Section 30(1) (b) of the MRTU Act, the Industrial and Labour Courts have power to accord permanency to employees affected by unfair labour practice. With respect, I am of the view that the principles enunciated by the Hon'ble Apex Court in the above decision have no application in the present case at hand, as this is not a case under MRTU Act and there is also no pleading that MRTU Act is applicable to this case.

9. It will not be out of place to mention here that in the decision reported in (2009) 8 SCC 556 (supra,) the Hon'ble Apex Courts have also held that the Court cannot direct creation of posts and status of permanency cannot

also be granted by Court where post does not exist. In this case, it is clear from the evidence on record that the appointment of the workman was not against any permanent vacancy and there was no vacant post when she was engaged by the Party No. 1. The workman has not disputed the claim of the Party No. 1 that its office at Nagpur has already been closed from 2007. In view of the reasons mentioned above, it is held that the workman is not entitled for regularisation in service.

As it is admitted by the Party No.1 that the workman was working since 1984 and her service was terminated on 1-6-2002, it is found that the workman is entitled for monetary compensation. Taking into consideration the facts and circumstances of the case and the evidence on record in its entirety, in my humble view payment of monetary compensation of Rs. 50,000 to the workman will be just and proper. Hence, it is ordered:

ORDER

The action of the management of Hindustan Insecticides Ltd. in not regularizing the services of Smt. Indira Gulabrao Puneekar as 'Faras' is legal and justified. However, the workman, Smt. Indira Gulabrao Puneekar is entitled for monetary compensation of Rs.50,000. The Party No. 1, Hindustan Insecticides Ltd. is directed to pay the amount of Rs. 50,000 to the workman within a month from the date of notification of the award in the Official Gazette.

J. P. CHAND, Presiding Officer

नई दिल्ली, 20 अप्रैल, 2011

का.आ. 1332.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल डब्ल्यू. सी. एल. एवं के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नागपुर के पंचाट (संदर्भ संख्या 220/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-2011 को प्राप्त हुआ था।

[सं. एल-22012/586/1999-आई आर (सीएम- II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 20th April, 2011

S.O. 1332. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 220/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workmen, which was received by the Central Government on 20-4-2011.

[No. L-22012/586/1999-IR(CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING
OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/220/2000

Date: 6-4-2011

Party No. 1 : The General Manager (Rescue),
Kalpana Nagar, Western Coalfields
Ltd., Mine Rescue Station, Indore
Complex, Kalpana Nagar, PO :
Uppalwadi, Nagpur.

Versus

Party No. 2 : The Jt. General Secretary,
Rashtriya Koyla Khadan Mazdoor
Sangh (INTUC), Plot NO.604,
Behind Giripeth Post Office,
Opp. RTO, Nagpur.

AWARD

(Dated : 6th April, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947, (14 of 1947), the Central Government has referred the industrial dispute between the employers, in relation to the management of General Manager (Rescue), Kalpana Nagar and their workmen for adjudication, as per letter No. L-22012/586/99-IR(CM-II) dated 6-7-2000, with the following schedule :—

“Whether the action of the management of WCL through its General Manager (Rescue), Indora Complex, Nagpur in reducing no. of holidays from 16 days to 8 days in a calendar year w.e.f. January, 1998 to the four employees without prior notice is legal and justified? If not, to what relief the workmen are entitled?”

It is necessary to mention here that in the schedule of reference the name of the four employees had not been mentioned by the Central Government. However, the names of the four employees, namely, (i) Shri K. P. Gupta, (ii) Shri G. V. R. Sarma, (iii) Smt. Nirmala Surendan and (iv) Shri Tapan Banerjee furnished by the Government vide its letter No. L-22012/586/99-IR(CM-II) dated 9-1-2002, on the request of the union.

2. Being noticed, the union, “Rashtriya Koyla Khadan Mazdoor Sangh” (“the union” in short) filed the statement of claim on behalf of the four employees and the management of Western Coalfield Limited (“WCL” in short) filed its written statement.

The case of the union is that WCL, Nagpur is a Government Coal Company owned and controlled by the Ministry of Coal, Government of India and is a state within the meaning of Article 12 of the Constitution of India and WCL is having its registered office at Nagpur and WCL

have different departments including rescue department and the departments are headed by various departmental heads and the General Manager (Rescue) is one of such heads of WCL and since its inception, the WCL has been observing 16 holidays in a calendar year in respect of employees working in its Head Office at Nagpur, besides extending the facility of availing some optional holidays to the employees of the different departments and the department of rescue was set up in the year 1980 and the said department had been headed by the General Manager and the Department of General Manager (Rescue) was having its office in the second floor of the own building of WCL at Headquarters and the employees working in the said department were availing the facilities of 16 holidays in a calendar year along with other optional holidays, like the other employees posted in other various departments of the Head Office of WCL and the rescue department was headed by one Shri Prasad and subsequently by Shri K. M. P. Verma and after the retirement of Shri Verma in 1996, Shri P. K. Batra was posted as General Manager (Rescue) in 1997 and while posting of Shri Batra by office order No. WCL/PER/EE/MIN/P/3 dt. 2-1-97 issued by Deputy CPM (EE). It was mentioned that Shri P. K. Batra, General Manager (Rescue Services) would hold his office in rescue section and Shri Batra assumed charge on 10-2-97 and established his office at Rescue Station, Indora Complex, Nagpur w.e.f. 10-2-97 and the Rescue Station at Indora is located within Nagpur Municipal Corporation limits like Headquarter of WCL and the distance between the two offices is about 7 kms and the shifting of the Office of the General Manager (Rescue) from WCL's Headquarter Office to Indora Complex was done due to shortage of office accommodation at Coal Estate Building, Civil Lines, Nagpur and nothing else and after having established the Office of the General Manager (Rescue) at Indora Complex, the status and delegations of powers of the General Manager had not been changed and the said General Manager continued as one of the heads of the departments of WCL at Headquarter and the General Manager (Rescue) ever after shifting of his office to Mine Rescue Station, Indora Complex continued to remain as self controlling officer like other heads of the departments of WCL, Headquarter Nagpur and after shifting of the Office of the General Manager (Rescue Services) to Indora Complex, the said office continued to observe 16 holidays even after the shifting i.e. from 10-2-97 to 31-12-97 and by office order No. WCL/IR/SE/339/3470 dt. 31-12-97 issued by the Personnel Manager (SE), the list of holidays for the calendar year 1998 was notified as 16 holidays for the said calendar year and 15 restricted holidays were also notified in consultation with the representatives of the Trade Unions of WCL and with the approval of the competent authority, which were also applicable to the employees posted in the Office of the General Manager (Rescue), WCL Headquarter, Nagpur, but by office order No. 2099 dt. 7/12-1-1998, the General Manager (Rescue Services),

Nagpur notified 8 holidays only in respect of employees working in his office, where the four employees mentioned above have been working and thus the General Manager reduced the holidays to the above four employees from 16 days to 8 days without serving any notice, as required under section 9(A) of the Industrial Disputes Act, 1947 ("the Act" in short) and the four employees made a representation dt. 13-1-98 to the General Manager (Rescue) and opposed the reduction of the holidays from 16 to 8, without serving any notice under section 9(A) of the Act and requested the General Manager to withdraw the office order dt. 7/12-1-1998 and to restore to the earlier facilities and service condition of 16 holidays, since the office of the General Manager (Rescue) is also one of the heads of the department of WCL but the General Manager did not reply to their representation. The further case of the union is that the four workmen are governed by the certified standing orders of WCL, which came into operation since February, 1993 and Article 37.2 of the certified standing orders provides that "these standing orders will not in any way curtail or adversely affect better privileges enjoyed by the existing workmen in any colliery/establishment" and the four employees are also governed by National Coal Wage Agreements I to VI and the National Coal Wage Agreement-V was in force at the time of reduction of the holidays from 16 to 8 and as per clause 12.1.0, it has been agreed by the management and the unions to allow the employees to continue to enjoy the existing benefits and under National Coal Wage Agreement also the existing benefits have been assured to continue unless they are altered by the said National Coal Wage Agreement and in the certified standing order No. 11 of WCL it has been provided that in respect of number of holidays will, however, continue if more favourable to the employees and in spite of such provision, even though the four employees were enjoying 16 holidays in a calendar year, the same was reduced to 8 in one calendar year without compliance of the requirement as laid down under section 9(A) of the Act and the same was also in gross violation of relevant guarantees given under the certified standing orders of WCL, the National Coal Wage Agreement-V and VI. It is also pleaded that the four employees were allowed to enjoy the paid holidays at par with the other employees of the WCL Headquarter at Nagpur and in the month of September, 1998, the General Manager (Rescue) deliberately denied to allow the four employees to enjoy 16 holidays and as such the union approached the ALC (C), Nagpur and as the conciliation failed, the report of failure of conciliation was submitted by the ACL to the Central Government and the Central Government has referred the dispute for adjudication and the action of reducing the holidays of the four employees from 16 to 8 by the General Manager (Rescue) from January, 1998 was illegal and bad in law and during the pendency of the dispute before the ALC, Nagpur, the General Manager (Rescue) illegally stopped the employees from enjoying

the 16 holidays and even when the dispute is pending with the Tribunal, the General Manager (Rescue) of WCL reduced the holidays of the four employees without seeking specific sanction of the Tribunal and thus, the General Manager violated the provision of section 33 of the Act. The union has prayed to declare the action of the General Manager (Rescue) WCL in reducing the 16 holidays to 8 holidays in a calendar year from January, 1998 onward in respect of the four employees is illegal and unjustified and to direct the management to pay wages together with interest of 8 holidays in a calendar year from January, 98 onwards to the above four employees and that the four employees are entitled to avail 16 holidays in a calendar year.

3. In its written statement, it is pleaded by the WCL inter alia that before the nationalization of the coalmines owned by the private parties in May, 1973, all the mines and their offices in the private sector were observing seven paid festival holidays in accordance with the provision of Central Wage Board for the coal mining industries, which had come into effect from 15-8-1967, but at the time of nationalisation of the coalmines in 1973, not only the private mines, but certain coalmines and offices of the then National Coal Development Corporation Limited (NCDC) also came under the administrative control of WCL and the mines of NCDC were spread over the states of Bihar, Orissa, Madhya Pradesh and Maharashtra and in Maharashtra, NCDC have its mines in the district of Nagpur and in Madhya Pradesh, in the districts of Sarguja, Bilaspur and Baitul etc. and for managing the said mines in the two states, offices of the General Manager were set up at Baikunthpur, Pathakhara and Korba in MP and Nagpur in the state of Maharashtra and in the offices of the General Manager of NCDC Ltd. employees were allowed to avail 16/18 gazetted holidays and therefore, at Nagpur and Pathakhara Area offices, 16/18 gazetted holidays are being allowed to continue after Nationalisation of other coal mines in May, 1973, but all the production units i.e. Mines units and the respective office establishments, even during the erstwhile NCDC time were allowed only 7 paid holidays and therefore, all staff, worker and executives posted in the field unit were getting 7 paid holidays and after nationalization, some more Area General Managers' offices were set up and the practice of seven paid holidays was introduced in the newly constituted area and in the erstwhile offices of the Area General Manager like Nagpur and Pathakhara belonging to ex-NCDC, 16/18 gazetted holidays were allowed to be continued, whereas new offices of the Area General Managers set up after nationalization, such as Chandrapur, Ballarpur, Wani North and New Majri in the state of Maharashtra are allowed seven holidays, which is now increased to 8 holidays and all the officers and staff posted and transferred to these areas, whether in the Area Offices or in the production unit were/are uniformly enjoying the benefit of 7/8 holidays and in Pench and Kanhan area,

which were under the Shaw Wallas Company, the staff and workers were enjoying 11/12 paid holidays, so in the Area Office of the said areas of WCL, 11/12 paid holidays were/are allowed to continue but in all production units/mines and establishments of the said Areas like other places, 7 (now 8) paid holidays are being allowed according to the practice and rules prevailing prior to nationalization and in the company headquarters at Nagpur following the norms and pattern of ex-NCDC, right from the date of its inception introduced 16/18 holidays and the officers and staff posted at headquarters by virtue of their posting here are enjoying 16/18 holidays and the facility of holidays is institutional and not personal and because of the said reason, when an officer or staff is posted or transferred from one establishment to another, he was allowed to enjoy the number of holidays as prevailing at the transferred place and the practice is in vogue right from the year 1973 and all the major unions and the general body of workers and staff have adjusted to the long standing system and there has been no resentment on this issue and there are 40 employees working in the Rescue Station at Indora and right from its inception in the year 1990, all the employees are allowed eight paid holidays and as such, the four workmen cannot have holidays on individual basis but they have to adjust according to the office holidays and the General Manager (Rescue), who is the Administrative Head of the office had earlier been sitting in the office building of WCL Headquarter at Seminary Hills was directed on 10-2-97 to shift himself with the staff to the main Rescue Station at Indora for effective administrative supervision and control of the activities of the Rescue Station and in fact, it was a case of transfer from headquarters to the field units and his office became a part and parcel of the Rescue Station and the facility of 8 holidays as prevailing at Rescue Station became operative and applicable to him and his staff and they became disentitled for 16/18 holidays of headquarters and out of the four workmen, Shri G.V.R. Sarma, while working at Dumari Hill Colliery and Chandrapur enjoyed 7/8 holidays from the date of his appointment till December, 1993 and then he was transferred from Chandrapur Area to Mines Rescue Station, Indora and joined on 10-1-1994 and worked there up to 5-5-1994 and enjoyed the holidays as allowed in the said period and he was then transferred to the company's headquarters and after his coming to the headquarters, he availed the holidays as declared in the headquarters and he had again been shifted alongwith the office of the General Manager (Rescue) to the Rescue Station Indora Complex, where 7/8 holidays are observed and when the certified standing orders came into force, Shri Sarma was working at Chandrapur area and was availing 7/8 holidays and as Shri Sarma was not enjoying 16/18 holidays and as such, the question of protecting the same in his case does not arise and no written contact was there between him and the management to grant him 16/18 holidays. It is also pleaded by the Party No. 1 that the workman, Shri Tapan Banarjee was appointed on 9-2-1991 at Saoner Mine and worked till 23-10-1991 and enjoyed 7/8 holidays and then he was transferred to the Mines Rescue Station, Indora on 24-10-1991

and remained there till 4-2-1992 and enjoyed 7/8 paid holidays and on 5-2-1992, he was transferred to the office of the General Manager (Rescue) then functioning in the Headquarters building and enjoyed 16/18 holidays and then shifted to Indora Complex alongwith the office of the General Manager (Rescue) and is allowed 7/8 paid holidays as declared in the office and the workman, Shri K. P. Gupta was initially appointed in Pench Area on 5-10-1972 and worked up to 1-4-1974 and enjoyed 7 paid holidays and then he was transferred to Headquarters on 2-4-1974 and started enjoying the holidays facility as available at Headquarters not as a matter of right, but according to the practice in vogue and he was transferred to Mines Rescue Station, Indora Complex on 16-7-1997 and allowed the benefit of 7/8 holidays as prevailing there and Smt. Nirmala Surendran was transferred back to the company's Headquarters on 16-8-1999 and started enjoying 16/18 holidays and availing of 16/18 holidays is not an inherent and contractual service condition in respect of any employee, whether executive or staff and the employees are to avail the holidays according to the place of posting and as such, the workmen are not entitled for any relief.

4. In support of their respective claims, both the parties have relied on documentary evidence. One of the four workmen, namely Shri K. P. Gupta has been examined as a witness on behalf of the workmen. Shri Gupta in his examination-in-chief, which is on affidavit has reiterated the facts as mentioned in the statement of claim. However, in the cross-examination, he has stated that he does not know how many paid holidays were availed by him and the General Manager, Rescue Office was shifted in February, 1997 and the Incharge of Mines Rescue Station is subordinate to the General Manager (Rescue) and Mines Rescue Station, General Manager (Rescue) and Headquarters office are at distance places and the notice of holidays for the year 1998 was displayed in the individual names of four employees and 1999 onwards they were general notice and he does not remember if Shri G.V.R. Sarma was availing 7 or 8 holidays from 1977 to 1994, while he was posted in Wardha Valley Coalfield. This witness has further stated that he had not objected for his transfer in the year 1997 on administrative ground from WCL headquarters to the General Manager, Rescue Office and he does not know how many holidays Shri Tapan Banarjee was availing while he was posted at Saoner Mines and the employees working under Mines Rescue Station are availing 8 paid holidays since 1997.

Two witnesses, namely, Shri Anjani Sharan and Shri G. P. Sharma, Personnel Manager, WCL HQ and Superintendent Mines Rescue Station respectively have been examined as witnesses on behalf of the Party No. 1. Both of them in their evidence have reiterated the stands taken by the Party No. 1 in the written statement.

5. At the time of argument, it was submitted on behalf of the union that the office of the General Manager (Rescue) was shifted from the headquarters office of WCL, Nagpur to the Mines Rescue Station located at Indora Complex

and both the said offices are located within the Municipal Corporation Limits of Nagpur city and it is admitted by the management that he notice about reducing the holidays of the four workmen from 16 days to 8 days from January, 1998 was displayed on 7/12-1-1998 and as per the said notice, the first holidays was on 26th January, 1998 and thus, the said notice suffered from the statutory time limit of 21 days prior notice u/s 9-A of the Act and Rules made thereunder and the document filed by the management regarding the delegation of power to the General Manager (Rescue) did not empower him to reduce the holidays of the employees working under the General Manager (Rescue) and from the evidence of Shri G.P.Sharma, the witness for the management, it is clear that the four workmen were not allowed to avail 16 holidays from January, 1998 and whenever they had not attended the office on the days of 16 holidays, their wages were deducted from their salaries and thus, the management had not paid wages to the four workman for eight days in a calendar year on account of reducing the holidays from 16 days to 8 days and the said action of the management is violative of law under section 9-A of the Act and the evidence of witness, Shri Anjani Sharan is of no use as he has admitted that he is not aware about the present dispute and the evidence of the witness examined on behalf of the workmen has remained unshaken in the cross-examination' and from his evidence and the evidence of the witnesses of the management, the case of the four workmen has been amply proved and the workmen are entitled for the reliefs claimed by them.

In support of such contentions, reliance has been placed on the decisions reported in 1973 LAB IC 218 (P & H High Court). The Sewak Bus and Transport Company Pvt. Ltd., Vs Punjab State), 1987 LAB IC 1093 (P & H High Court) (Janta Co-operative Sugar Mills Ltd. Vs Labour Court), 1984 LAB IC 445 (Bombay High Court) Navbharat Hindi Daily Vs Navbharat Shramik Sangha) and 1986 LAB IC 1161 (A.P.High Court) (G.Maruthaiah Vs The A. P. SEB and others).

In all the above decisions, the Hon'ble Courts have held that the provisions of section 9-A of the Act are mandatory and are enacted for protecting the interest of workmen likely to be affected by proposed change.

6. On the other hand, it was contended on behalf of the management that in this case, no rejoinder has been filed by the union to the written statement and the union has also not challenged or denied any of the documents, which were filed by the Party No.1 and copies of the same were handed over to the union and in view of the terms of the reference, the points to be considered are as to whether in the office of the General Manager (Rescue), Indora Complex was having 16 holidays in a year and the holidays were reduced illegally to 8 days and whether any prior notice was required to be given for such reduction and the number of holidays to be allowed to an employee is institutional and not personal and if an employee is posted in an establishment of WCL, he avails the number of holidays as notified/followed in that establishment, in other words, if an employee is transferred and posted to any

establishment where 16 holidays are allowed, he avails 16 holidays, but when he is transferred and posted to any establishment, where 8 holidays are allowed, he avails only 8 holidays, irrespective of the fact that he was transferred from a place, where 16 holidays were allowed and such practice is in vogue right from inception of WCL and the same has remained unchallenged and the four workmen also availed the number of holidays in accordance with the place of posting and all of them, except Smt. Surendran had come to WCL headquarters from units/establishments, where 7/8 holidays were/are allowed and Indora Rescue station is not a part of the headquarters establishment, though the same is situated at Nagpur and the same is being treated as field establishment and as such, right from its inception in the year 1990, only 8 paid holidays are allowed at that place and therefore, after the shifting of the office of the General Manager (Rescue) to Rescue station, Indora in February, 1997, it became an integral part of Rescue station and the 40 employees working at Rescue station at Indora were/are enjoying the benefit of 8 holidays and as such, in 1998, specific order was issued allowing 8 holidays for the shifted office of the General Manager (Rescue) and the order specifically states that 'because of the office of the General Manager (Rescue) has become a field office, 8 holidays will be observed therein and as such, the four workmen are not entitled to the reliefs as prayed for.

7. Perused the materials on record including the evidence, both oral and documentary, produced by the parties. It is clear from the evidence on record that the office of the General Manager (Rescue) was functioning in the office building of WCL at Nagpur headquarters, prior to the shifting of the same to Indora Complex in February, 1997 and all the four workman who were working in the office of the General Manager (Rescue) were availing 16 paid holidays which was in vogue in the headquarters office, Nagpur of WCL. It is also found from the documents on record that from May, 1956 to July, 1967, as per Industrial Tribunal Award (Mazumdar Award), 7 paid holidays were provided for coal employees and the same number of holidays had been provided from August, 1967 to 1975, according to the Central Wage Board for coal industry and such 7 holidays was increased by one day and became 8 days, as per National Coal Wage Agreement No. III, as Miner's day was also included as a paid holiday in the list of paid festival holidays. The Certified Standing Orders of WCL also provides for grant of eight paid festival holidays with a proviso that if any prevalent practice more favourable is there, then the same will continue. So, it is clear from the codified provisions that the employees of WCL are entitled for only 8 holidays in a year with the exception that if in any establishment, more favourable holidays are prevailing, the same will continue.

It is necessary to mention here that no document has been filed by the union or the four workmen to show that the four workmen are entitled for 16 paid holidays in a calendar year. It is also found from the record that as per the prevailing practice, employees working in different establishments at headquarters office, Nagpur were / are

availing 16 holidays in a calendar year and as the office of the General Manager (Rescue) was also functioning in the headquarters office, the four workmen were availing 16 holidays in a calendar year. It is also evident from record that the four workmen, except Smt. Nirmala Surendran were working at different areas of WCL prior to their posting at the headquarters and they were availing 7/8 paid holidays in a calendar year as par with the other employees posted in that area. It is also found from the evidence on record that Rescue station at Indora complex is a part and parcel office of the General Manager (Rescue), where 40 employees were working were enjoying 8 holidays in a calendar year. So, when the office of the General Manager (Rescue) was shifted to Indora complex, all the employees working in the establishment of the General Manager (Rescue) including the four workmen were entitled to avail the 8 paid holidays as in practice and applicable to the employees working in the establishment at Indora.

Though Shri K.P.Gupta, who has been examined on behalf of the four workmen has stated that in 1998, the list of holidays was displayed in the individual name of the four workmen, on perusal of the notice of holidays of 1998, which is on record, it is found that the said notice was a general notice. It is also found that in the said notice, it was specifically mentioned that as the office of the General Manager (Rescue) has become a field office, only eight paid holidays would be observed as per list.

From the materials on record, it is found that availing of 16 paid holidays in a calendar year was never a service condition of the four workmen. It is also evident that availing of paid holidays is institutional and not personal and the employees of WCL are entitled to avail the paid holidays in accordance to the place of their posting. In view of the said facts, it can be said that the four workmen were entitled for 16 paid holidays, which they were availing, while the office of the General Manager (Rescue) was functioning at headquarters and after shifting of the office of the General Manager (Rescue) to Indora Complex, where the other employees of Rescue service were availing 8 paid holidays, they were not entitled to avail 16 paid holidays and were entitled to avail only 8 paid holidays as per with other employees. Hence, the notice as given on 7/12-1-1998, by the General Manager (Rescue) for availing of 8 paid holidays for 1998 for the employees of the office of General Manager (Rescue) including the four workmen on the ground that the said office has become a field office, cannot be said to be change of service condition of the four workmen and thereby attracting the compliance of the provisions of section 9-A of the Act. Hence, it is ordered :

ORDER

The action of the management of WCL through its General Manager (Rescue), Indora Complex, Nagpur in reducing no. of holidays from 16 days to 8 days in a calendar year w.e.f. January, 1998 to the four employees without prior notice is legal and justified. The workmen are not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 20 अप्रैल, 2011

का.आ. 1333.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 13/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-2011 को प्राप्त हुआ था।

[सं. एल-17011/5/2002-आई आर (बी- II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 20th April, 2011

S.O. 1333.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 13/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the management of LIC of India and their workmen, received by the Central Government on 20-4-2011.

[No. L-17011/5/2002-IR(C-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 13 of 2002

Parties : Employers in relation to the management of

LIC of India

AND

Their workmen

Present : MR. JUSTICE MANIK MOHAN SARKAR,
Presiding Officer

APPEARANCES:

On behalf of the : Mr. N. K. Mehta, Advocate with
Management Mr. T. Chowdhury, Advocate.

On behalf of the : Mr. S. Mukherjee, Advocate.
Workmen

State : West Bengal

Industry: Insurance

Dated: 24th March, 2011.

AWARD

By Order No. L-17011/5/2002-IR(B-II) dated 24-05-2002 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial

Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of LIC of India, Jalpaiguri Branch (1), Jalpaiguri in imposing the punishment of removal from service upon Shri Sushil Kumar Saha vide order dated 24-7-2000 is legal and justified? If not, what relief the concerned workman i.e. Shri Sushil Kumar Saha is entitled to?”

2. One application has been filed yesterday on behalf of the Workmen Union expressing the intention of the workman concerned not to proceed with this matter any more for the reasons stated in the application. The workman concerned, Shri Sushil Kumar Saha is personally present in the court room of the Tribunal and he has personally heard by me and he has stated the same thing as narrated in the application and he firmly stated that he does not want to proceed any more with the present reference.

3. In such circumstances, let the present matter be disposed of on non-prosecution by the Workmen Union as well as the workman concerned himself.

An Award to that effect is passed accordingly.

JUSTICE MANIK MOHAN SARKAR, Presiding Officer

Dated, Kolkata,

The 24th March, 2011.

नई दिल्ली, 20 अप्रैल, 2011

का.आ. 1334.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 37/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-2011 को प्राप्त हुआ था।

[सं. एल-12011/71/2004-आई आर (बी- II)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 20th April, 2011

S.O. 1334.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 37/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the management of UCO Bank and their workmen, received by the Central Government on 20-4-2011.

[No. L-12011/71/2004-IR(B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 37 of 2004

Parties : Employers in relation to the management of

UCO Bank

AND

Their workmen

Present : Mr. Justice Manik Mohan Sarkar,
Presiding Officer

Appearance :

On behalf of the : None
Management

On behalf of the : None
Workmen

State : West Bengal.

Industry: Banking

Dated: 6th March, 2010.

AWARD

By Order No. L-12011/71/2004-IR(B-II) dated 3-9-2004 the Government of India, Ministry of Labour In exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of UCO Bank by not regularizing the services of Shri Debnath Ghosh at the bank's role is justified and legal? If not, what relief the workman is entitled to? and whether the action of the UCO Bank management by not paying equal pay for equal work to Shri Debnath Ghosh is justified and legal? If not, what relief the concerned workman is entitled to?”

2. None is present from either side when the matter is called. The A. D. Card in respect of the service of fresh notice as ordered on the last date has been received with the endorsement of service on 5th February, 2011. Even thereafter none is present from the workmen union.

3. On perusal of the order sheet of this reference it is revealed that the parties specially the workmen side is not appearing for a pretty long time since 24-11-2007.

4. In such circumstances, it is found that the workmen union or the workman himself is not interested to proceed with the present reference and it is presumed that the industrial dispute raised in the order of reference, is not in existence at present. For that reason I do not find any reason to proceed with this matter any more. So, let the present reference be disposed of with the observation that there is no industrial dispute at present.

An Award is passed accordingly.

JUSTICE MANIK MOHAN SARKAR, Presiding Officer

Dated, Kolkata,

The 6th April, 2011.

नई दिल्ली, 20 अप्रैल, 2011

का.आ. 1335.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 73/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-2011 को प्राप्त हुआ था।

[सं. एल-12012/14/2001-आई आर (बी- II)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 20th April, 2011

S.O. 1335.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 73/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the industrial dispute between the management of The Regional Manager, CBI and their workmen, received by the Central Government on 20-4-2011.

[No. L-12012/14/2001-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT LUCKNOW

PRESENT

DR. MANJUNIGAM, Presiding Officer

I. D. No. 73/2001

Ref. No. L-12012/14/2001-IR (B-II) dated 27-4-2001

BETWEEN

Shri Chandra Prakash, S/o R. Chander,
H. No. 117, Chirya Tola, Line Par,
Moradabad (U.P.)-244 001

AND

The Regional Manager,
Central Bank of India,
88-B, Civil Lines,
Bareilly (U.P.)-243 001

AWARD

1. By Order No. L-12012/14/2001-IR (B-II) dated 27-4-2001 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Chandra Prakash, S/o R. Chander, H. No. 117, Chirya Tola, Line Par, Moradabad and the Regional Manager, Central Bank of India, 88-B, Civil Lines, Bareilly for adjudication.

2. The reference under adjudication is :

“Whether the action of the management of Central Bank of India in terminating the services of Shri Chander Prakash S/o Shri Ram Chander w.e.f. 1-4-2000 is justified? If not, for what relief is he entitled to?”

3. The case of the workman, Chandra Prakash in brief is that he was appointed in Bank's service as sub staff in a clear vacancy, after full filling the terms and conditions of the bank @ Rs.30 and 40 per days and worked as such up to 31-3-2000 for more than 278 days when his services have been retrenched by the bank without assigning any reason and appointed another junior to him in his place. The workman has also submitted that during his working in the Bank he worked in different names i.e. as many as 33 names, under the instructions of the Branch Manager and he has given the list of said 33 names in his statement of claim. The workman has alleged that the action of the management of the bank in retrenching his services and appointing another person junior to him is violative of provisions contained in Section 25 H of the Industrial Disputes Act, 1947; and accordingly he has prayed that he be reinstated with retrospective effect with all consequential benefits, including back wages.

4. The management of the Bank, denying the claim of the workman has filed its written statement; wherein it has submitted that the workman was never appointed in the bank services at any post and since he was never been appointed in any capacity there arise no question of his retrenchment or appointing anyone junior to him in his place or that of violation of any of the provisions of the I.D. Act. It has further been submitted that there is prescribed procedure for appointment in the Banks and the workman never went through those procedures; rather as a matter of fact he was engaged for bringing water and removal of old records on daily wages only for two days for working two to three hours per day as per requirement of the Bank and the provisions contained in Bipartite Settlement is not applicable to the workman. Accordingly, the management has prayed that the claim of the workman be rejected with any relief to the workman concerned.

5. The workman has filed its rejoinder wherein he has not brought any new fact apart from reiterating the averments made by him in his statement of claim.

6. The parties have filed documentary evidence in support of their respective claim. Workman examined himself whereas the management examined Shri Pravin Kumar Jain, Sr. Manager in support of their claim. Parties availed opportunity of forwarding oral argument; moreover, the workman also filed its written submissions.

7. Heard representatives of the parties and scanned entire evidence on record.

8. The workman's representative has submitted that the workman was engaged in exigency of the Bank, against

clear vacancy, to work in sub-ordinate cadre, but was paid on daily rates. He has contended that the management of the Bank has terminated the services of the workman in violation of provisions contained in para No. 209 of Bipartite Settlement as he has put in more than 278 days continuous service. Further, he has submitted that the workman has received from the bank for the above mentioned duration in different names and it is well proved by the Hand Writing Expert report. He has relied on 2010 (126) FLR 852 (Born. H.Cc-N.B.) Damodar & another vs. Dy. Engineer, GSDA, Buldhana & others.

9. Per contra the management's representative, rejecting the claim of the workman out rightly, has submitted that the workman was never appointed in any capacity on any post against any capacity; rather he was engaged for few hours as per requirement of the Bank; and accordingly the provisions of the Bank are not applicable in case of the workman. He has further argued that the workman was never appointed in the Bank following due procedure, therefore, there arise no question of making his retrenchment at any point of time.

10. The workman, Chandra Prakash examined himself as witness in support of his case; whereby he has stated that he worked in the Bank w.e.f. 23-4-99 and he was kept by Shri S.K. Nandwani, Accountant on daily wages. He has further stated that he worked w.e.f. 23-4-99 to 31-3-2000 for approximately 300 days and he was paid through voucher; and also, that after his termination no other person has been appointed in his place. In cross-examination he stated that vacancy was not notified in any news paper nor he was issued any appointment letter. He also stated that he was not appointed in permanent capacity nor any post was vacant. He further stated that he was engaged after retirement of Shri Bhardwaj. He specifically stated received payments in different names at the instructions of Shri S.K. Nandwani. He also stated that he worked for 300 days; but he has nothing in writing in this regard. In support of his statement he produced photocopy of following documents.

- (i) Letter dated 7-3-2000 of Sr. Manager regarding information on sub-staff engaged in casual/ temp. basis.
- (ii) Voucher dated 01-05-99; whereby payment was received by the workman.
- (iii) Voucher dated 20-08-99; whereby payment was received by the workman.
- (iv) Voucher dated 20-01-2000; whereby payment was received by the workman.
- (v) Voucher dated 09-02-2000; whereby payment was received by the workman.
- (vi) Voucher dated 10-02-2000; whereby payment was received by the workman.

(vii) Acknowledgement Book dated 18-11-99.

(viii) Acknowledgement Book dated 31-12-99.

(ix) Circular dated 17-8-2000 regarding information on subordinate staff engaged on casual/ temporary basis.

11. In rebuttal, the opposite party examined Shri P.K. Jain, Sr. Manager who stated that the workman was never appointed in the Bank's service at any post or on any vacancy from 23-4-99 to 31-3-2000; rather he was engaged, intermittently, for bringing the water and removal of old records on daily wages. He has further stated that there is prescribed procedure for appointment in the bank and only those who go through these procedures are appointed in bank services and since the workman never went through them, he is seeking back door entry into the bank services. He has also denied that the workman worked in 33 names and received payment in their names and stated that the work was actually performed by those in whose name vouchers were prepared and the payment was actually received by the persons whose favour the voucher was prepared. He further stated that it is wrong to say that any junior to the workman was appointed on any post at any time. In cross-examination, he stated that as per bank rules it is not possible that voucher is prepared in one's name and the payment is received by some one else. He has specifically stated that the workman was engaged for fetching water for two-three hours and for making engagement of short time, the powers are vested in the branch manager and no time limit is fixed for such engagement. He also denied of engaging the workman during his tenure in the branch. It was also stated that the workman is not entitled for any benefit as he was not appointed in the bank.

12. It is settled law that a party invokes jurisdiction of the court has onus to prove its case and the management by denying the claim of workman with statement that he was never appointed any capacity against any vacancy and rather he worked intermittently, on casual basis of petty works for few days only and also that the workman never worked in 33 names and received payment in their names. Accordingly, the onus shifted on the workman to prove that he actually worked for 240 days continuously preceding twelve months from the date of termination and he received payment for it and when the workman comes forward with the case that he worked in 33 different names and received payment for same, then it is the workman to prove this fact.

13. The workman vide its application dated 23-5-2002 prayed this Tribunal to direct for joint inspection of management records as well as expert investigation regarding work done by the workman between 23-4-99 and 01-04-2001 at which this Tribunal observed that there would be requirement of expert inquiry regarding working of workman in 33 different names and putting signatures

accordingly. Hence, this Tribunal vide its order dated 27-09-2002 directed the management to produce the documents, in original, pertaining to the period 23-04-99 to 01-04-2001 in respect of names mentioned in para 06 of the affidavit and inform the authorized representative of the workman also so that the documents may be examined by the workman's expert. At this the management in compliance of order dated 27-09-2002 of this Tribunal, filed photocopy of vouchers with application No. 31.

Further, this Tribunal vide its order dated 20-4-2004, allowing the application, C-39 of the workman for examination of the signatures by Hand Writing Expert, directed the management to file original vouchers for taking photographs of signatures on the vouchers and also for taking photographs of admitted signatures of the worker in the Court.

Accordingly, the Hand Writing Expert, Shri Maneesh Saxena examined the documents on 09-11-2004 and took photographs of the same on 21-12-2004 before this Tribunal and submitted his report dated 30-11-2005 vide application C-56. The management availed the opportunity to cross-examine the Hand Writing Expert over his report dated 30-11-2005.

14. The Hand Writing Expert, Shri Maneesh Saxena was examined over his report dated 30-11-2005 and he stated that he marked 'disputed writing' overleaf of the vouchers with Q-1 to Q-67, Q-69 to Q-91 and Q-93 to Q-95 whereas he marked 'disputed thumb impression' with Q-68 and Q-92 and also, marked 'specimen writing' of the workman, Chandra Prakash with S-1 to S-70 and marked 'specimen left hand thumb' of the workman with L-1. He further stated that thereafter he took photograph of disputed and accepted writing and thumb impression. Shri Saxena very specifically stated that the 'disputed writing' with mark Q-1 to Q-67, Q-69 to Q-91 and Q-93 to Q-95 is that of the person whose 'specimen writing' with mark S-1 to S-70; and also, that the 'disputed thumb impression' with mark Q-68 and Q-92 is that of the person whose 'specimen left hand thumb' with mark L-1 and the report has been submitted before this Tribunal in his signature and stamp on each page.

In cross-examination, Shri Saxena, the Hand Writing Expert has stated that the photographs were developed before him in colour lab and he marked only 94 vouchers and took their photographs only at the instructions of the authorized representative of the workman. He further stated that he found 'natural variation' in disputed and admitted writing which is obvious as human hand is not a rubber stamp.

15. On conclusion of workman's evidence the management sought time to rebut the evidence forwarded by the workman by its hand writing expert; and accordingly, next date was fixed for producing hand writing expert by

the management. On subsequent dates the management could not bring its hand writing expert and finally, it stated vide its application, D-35 that it is not interested in getting the documents examined from the expert and requested that the case be fixed for arguments. Accordingly, case was fixed for arguments and the parties availed the same.

16. In the instant case it was the case of the workman that he worked as daily wager during period 23-04-1999 to 31-03-2000 and received payment by putting signatures in about 33 different names; and in support of his claim the workman got the vouchers, for the relevant period, examined by the hand writing expert who gave its report in the favour of the workman. The workman also produced the hand writing expert for cross-examination who authenticated its report and accordingly, the workman has well proved that he received the payment in 33 different names by putting signatures in there names.

17. In the circumstance, now it has to seen that as to whether the workman actually worked for 240 days continuously in a year preceding the date of his alleged termination or not. Thus, on going through the vouchers, produced by the management vide application dated 04-04-2003 and admitted by the workman, the total working days of the workman comes to be as under:

Month	No. of days
May 1999	17
June, 1999	24
July, 1999	25
August, 1999	30
September, 1999	19
October, 1999	26
November, 1999	22
December, 1999	24
January, 2000	14
February, 2000	06
March, 2000	06
Total	213

18. Thus, it comes out that the workman had actually worked for 213 days only during his alleged engagement. In the instant case in view of denial of the management regarding claim of the workman, the burden was on the workman to establish this fact that he actually worked continuously for 240 days in twelve months preceding his alleged termination i.e. 01-04-2000; but he has failed to discharge the above burden. Apart from above vouchers filed by the management vide its application dated 4-4-2003, there is no other reliable material for recording findings that the workman had worked more than 240 days in the preceding year from the date of his alleged termination and the alleged unjust or illegal order of termination was

passed by the management; and in the event of not completing 240 days working in the preceding year from the date of alleged termination, it was not incumbent upon the management of the bank to comply with the provisions of Section 25 F of the I.D. Act.

19. Accordingly, in view of the discussions made above the reference under adjudication is answered in affirmative with observation that the action of the management of the Central Bank of India in terminating the services of the workman w.e.f. 01-04-2000 is not unjustified; and accordingly in my opinion, the workman, Chandra Prakash is not entitled to any relief.

20. The reference under adjudication is decided accordingly.

21. Award as above.

Lucknow
25-03-2011

Dr. MANJUNIGAM, Presiding Officer

नई दिल्ली, 20 अप्रैल, 2011

का.आ. 1336.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 1/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-2011 को प्राप्त हुआ था।

[सं. एल-12012/80/2007-आई आर (बी- II)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 20th April, 2011

S.O. 1336.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.1/09) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 20-4-2011.

[No. L-12012/80/2007-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

PRESENT : N. K. Purohit, Presiding Officer

I.D.1/09

Reference No.L-120 12/80 12007(IR(B-II)

Dated : 28-11-2007

Shri Ravi Kumar
S/o Shri Kalyan Sahai
R/o A-21, Phase-III,
Jhalana Doongari
Baiji Ki Khothi, Jaipur.

Vs.

The Zonal Manager
Punjab National Bank
2, Nehru Place, Tonk Road,
Jaipur.

AWARD

18-3-2011

1. The Central Government in exercise of the powers conferred under clause (d) of sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication which is as under: -

“Whether the action of the management of Punjab National Bank through Zonal Manager, Zonal Office, Jaipur in not giving PTS job on regular basis to Shri Ravi Kumar but appointing 07 such part time Safai Karamchhari having less working days than the applicant Shri Ravi Kumar is fair and justified? If not, what relief the workman is entitled to and from which date?”

2. The workman in his claim statement has pleaded that he joined services of the bank as a temporary Safai Karamchhari w.e.f. August, 1997 at Everest Colony Branch, Jaipur and he had worked there for 140 days during period from August 1997 to December, 1999. He has further pleaded that during period from 2000 to 2004, he had worked at different branches for a total period of 139 days but his service was terminated on 17-1-2004. An Industrial Dispute against illegal termination was raised by him but the Ministry did not refer the matter for adjudication. He has also pleaded that he had worked at Raja Park branch, Jaipur for about 94 days mainly as a temporary Safai Karamchhari as and when the permanent employee proceeded on leave during period from January, 06 to December, 06. He also worked for about 10 days at Transport Nagar Branch Jaipur in the month of October, 2006. Thus from August, 1997 to 13 December, 2006 he had worked as temporary Safai Karamchhari with a hope that as & when there would be any permanent vacancy created at any branch/ establishment, he will be given 1st preference to fill up the vacancy. It has been alleged that the management of the bank has admitted before the Conciliation Officer that 7 part time sweepers were engaged on regular basis who had previously worked as temporary/ daily wage employee. The said action of the management was in violation of Section 25(H) of the I.D. Act. Therefore, the management of the bank be directed to provide regular appointment to the workman as a part time Safai

Karamchari w.e.f. 27-3-2000 on same terms and condition on which Shri Mukesh was appointed in Jhotwara branch, Jaipur. The applicant may also be declared entitled for payment of back wages w.e.f. 27-3-2000 since he was illegally deprived from his legal entitlement for appointment.

3. The management in their counter statement has contended that since the Ministry of Labour & Employment did not consider the dispute earlier raised by him fit for adjudication as informed by letter dated 14-7-05, the present dispute merits no consideration. The writ petition filed by the workman against the said order was withdrawn by him. Now the workman has raised the same issue, therefore, in view of principle of resjudicata the claim is not sustainable. It has further been contended that no employer employee relation ever existed between the parties. The workman was used to be engaged by the bank's branch on daily wages basis for cleaning of office premises during the absence of permanent part time sweepers. Therefore, he cannot be treated as workman as defined in Section 2(S) of the I.D. Act. It has also been contended that vacancies of the part time sweepers have been filled up out of applicants who submitted their applications and worked temporarily in the branch on the recommendations of the concerning branch manager. In the cases of 7 appointees as referred in the application, they had applied to the bank for appointment & their applications were considered in terms of bank's rules/guidelines. Since, the applicant had not submitted any application his case was not among those who were considered for appointment. Therefore, the workman is not entitled for any relief as claimed in his claim statement.

4. At the stage of workman's evidence both the parties requested to list the case in Lok Adalat on 3-3-11. The workman moved an application on 3-3-11 wherein it has been stated that on the basis of compromise arrived between the parties in the spirit of Lok Adalat he wants to withdraw his claim. He also submitted an affidavit stating therein that he is ready to be appointed as fresh part time sweeper & in case new appointment is given to him, his claim may be considered as withdrawn.

5. The learned representative on behalf of the management has admitted this fact that the workman has been selected for the post of part time sweeper & appointment for the said post will be given to him after disposal of the present matter.

6. In view of the understanding arrived between the parties, it appears that no dispute exists between the parties & grievances of the workman stand redressed. There is no need to go into the merits of the case as there is no grievance left with the workman. Under these circumstances, "No Dispute Award" is passed. The reference under adjudication is answered accordingly.

7. Award as above.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 21 अप्रैल, 2011

का.आ. 1337.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-I, चंडीगढ़ के पंचाट (संदर्भ संख्या 411/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-4-2011 को प्राप्त हुआ था।

[सं. एल-12012/100/2000-आई आर (बी- II)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 21st April, 2011

S.O. 1337.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 411/2000) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, received by the Central Government on 19-4-2011.

[No. L-12012/100/2000-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT 1,
CHANDIGARH

Case I. D No. 411/2000

Sh. C.M. Guglani, H.No.1270,
Sec-6, Urban Estate,
Karnal-132001

...Applicant

Versus

The Regional Manager,
Punjab National Bank,
Regional Office,
Mera Sadbhawana Chowk,
G. T. Road, Karnal-132001

...Respondent

APPEARANCES:

For the Workman : Sh. Amit Sharma and
Sandeep Bhardwaj
For the Management : Sh. Arvind Rajotia.

AWARD

Passed on: 28-3-11

Government of India, Ministry of Labour and
Employment vide Notification No. L-12012/100/2000-IR(B-II)

dated 18-10-2000 referred the following industrial dispute to this Tribunal for adjudication.

"Whether the action of the management of Punjab National Bank in dismissing the services of Shri CM. Guglani, Ex-Clerk w.e.f. 20-9-1997 is just and legal? If not, what relief the workman is entitled and from which date?"

After receiving the reference, parties were informed. Parties appeared and filed their respective pleadings. The case of the workman in nutshell is that he was served two charge-sheets dated 4-10-1993 and 21-10-1993. The charge-sheets served on the workman were as follows:-

1. You were deputed to BO : Lal Chowk, Srinagar where you worked on deputation from June, 1992 to 20-3-1993. You opened SF a/c no.1677 on 15-12-92 and obtained cheque book containing cheque leaves from 209551 to 209600. On 20-1-93 while officiating as Special Assistant you debited cheque no.209552 favouring self for Rs.10000 and created an overdraft of Rs.9900 for which you had no authority. Creation of overdraft was intentional as no overdraft is allowed in SF accounts.

2. In order to conceal your irregular act, you credited the amount without mentioning the date by writing C.B. (correct balance but extracted credit balance of Rs.9900). This was intentional only to conceal your dis-honesty of having created overdraft in your own account.

3. On 23-1-93, you deposited a sum of Rs.9900 in the account and extracted NIL balance against the entry. However, on 23-2-93 you unauthorisedly debited cheque no.209556 favour Sh.J.P. Guglani for Rs.3400 and cheque no.209557 favouring Sh. J.P. Guglani for Rs. 10000 and permitted an unauthorized overdraft of Rs.13,400 in the account. The action of having sanctioned overdraft in your own account was a highly irregular act, which was not got confirmed from your superior, competent to sanction overdraft in your SF account.

4. It has been revealed that Sh. J.P Guglani, the payee of the cheque no.209556 for Rs.3400 and cheque no.209557 for Rs.10000 is your real brother, working in Canara Bank, Karnal and the overdraft was created only to enable him to draw the funds. You passed cheques as Special Assistant in your own account unauthorisedly and permitted diversion of funds in favour of your close relative in surreptitious manner.

5. You have been unauthorisedly making use of official telephone for personal purpose without permission or sanction for the same and without re-imbursing the cost of lightening calls booked by you for speaking to your relations in Karnal. In 60: Lal Bagh, Srinagar, you booked following calls:-

Date	Number obtained	Amount of bill (Rs.)
9-11-92	22428-Karnal	467.50
11-11-92	22428-Karnal	467.50
12-11-92	22428-Karnal	27.50
13-11-92	22428-Karnal	467.50
18-11-92	22428-Karnal	467.50
		Total Rs. 1897.50

It is now revealed that the lightening calls were booked from official telephone on telephone number 22428 in Karnal where Sh. JP Guglani, your brother is employed. The said telephone is installed in branch of the Canara Bank, Karnal.

6. On 15-6-93 you obtained an advance of Rs.2000 and also on 19-6-93, Rs.2000 advance from suspense account for proceeding on LFC. You have not proceeded on LFC and have been absenting from the branch without any limitation or without any credit or leave to you. This is inspite of the fact that you obtained an advance of Rs.4000 earlier on 22-6-91 and mis-utilized the funds which were recovered from you after charging interest @ 25%. Thus, you are habitual of remaining absent unauthorisedly and also withdrawing funds under false pretexes of proceedings on LFC.

7. You remained absent from the branch on the following dates :-

Date	No. of days
21-7-93 to 20-8-93	31 days
23-8-93 to 24-8-93	33 days
1-10-91 to 11-10-91	11 days
14-10-91 to 16-10-91	3 days
20-10-91	1 day
25-10-91 to 26-10-91	2 days
30-10-91 to 31-10-91	2 days

Due to your absence without intimation, the working of the branch is frequently hampered which ultimately affects customer service and bank business.

SUPPLEMENTARY CHARGE-SHEET DATED 21-10-1993

1. On 30-11-1992 while officiating as Special Assistant in BO : Badshah Bridge, Srinagar, you handed over to Sh. Ghulam Hasan Rathor, Prop. of M/s Royal Son Products, four cheques drawn by Smt. Kamlesh Guglani, your wife on her saving Bank Account No.14677 with BO : Karnal as per particulars given below :- :

- (i) Cheque No.108323 dt. 20-11-92 for Rs. 1,50,000
- (ii) Cheque No.108325 dt. 20-11-92 for Rs. 1,50,000
- (iii) Cheque No. 108324 dt. 20-11-92 for Rs. 2,00,000
- (iv) Cheque No. 108326 dt. 20-11-92 for Rs. 2,00,000

Rs. 7,00,000

The account of Smt. Kamlesh Guglani your wife, had a credit balance of Rs.103 only and you had full knowledge that your wife had no means to have such huge amount and the cheques totalling Rs.7.00 lacs as detailed above cannot be paid out of the account. Thus, with an intent to mis-appropriation the funds and commit a fraud, you handed over the aforesaid four cheques involving a total sum of Rs. 7.00 lacs to the party. You acted with mala fide intention and diverted funds in favour of the party.

2. On 30-11-92, you debited HO suspense account with Rs. 1.50 lacs, Rs.1.50 lacs, Rs.2.00 lacs and Rs.2.00 lacs and credited the equivalent amount to Current Account No.1676 in name of M/s Royal Sons Products. The said account was opened with a sum of Rs. 500 on 30-11-92 itself. These vouchers were prepared and authenticated by you and the respective vouchers were also made by you with an intent to facilitate committal of fraud in the branch.

3. On the same day that is 30-11-92 you passed cheque No. 209251 dated 30-11-92 for Rs. 6,49,927 issued by M/s Royal Son Products in favour of M/s Salutes India, who were maintaining current account No.182 with BO: Rawalpura Housing Colony, Srinagar, a branch which was operating from the same premises. You had no authority to pass a cheque of such huge amount and credit the proceeds to the account of M/s Salutes India, whose account was already overdrawn.

4. On 20-1-93 without any authority from the account holder, you prepared a voucher and posted the same in the ledger yourself and debited a sum of Rs. 7.00 lacs to the current account of M/s Royal Son Products and credited the same to HO suspense account to adjust four entries of Rs.1.50 lacs, Rs. 1.50 lacs, Rs. 2.00 lacs and Rs. 2.00 lacs as per details given in para 2 above. You had no authority to pass a voucher of such amount. You also acted unauthorisedly by operating an account of the party without any authority for the same. You also tried to eliminate the evidence related to creation of the aforesaid entries for Rs. 7.00 lacs with mala fide intentions and dishonesty. This act was aimed at preventing detection of bogus entries created in connection with HO suspense account.

5. In order to conceal fraud committed by you through cheques No. 108323 dated 20-11-92 for Rs.1.50 lacs cheque No. 108324 dt.20-11-92 for Rs. 2 lacs cheque No. 108325 dt. 20-11-92 for Rs.1.50 lacs cheque No. 108326 dt. 20-11-92 for Rs. 2 lacs drawn on the account of your wife and on the strength of which you created bogus HO suspense entries you destroyed the relevant cheques instead of dispatching the same to BO : Karnal for collection. You had dishonest intentions in all these transactions.

6. Through your above acts CA No.1676 of M/s Royal Son Products has become overdrawn by Rs.3,63,061 as on 8-3-93 and the amount is also irrecoverable on account of unauthorized operations through vouchers passed by you without any authority from the concerned party and is apprehended to be a loss to the bank.

7. It is further noticed from the record that account No.14677 of Smt. Kamlesh Guglani, your wife, was introduced by you. The cheque book containing leaves 108321 to 108340 appears to have been obtained by you through forgery as there is distinct similarity of handwriting on the relevant ledger sheet. Thus, you have indulged in committing a forgery, also acted in mala fide manner with an intent to commit a fraud with the bank as is also evident from the acts noted in para No. 1 to 5.

8. You remained absent from 30-12-92 to 10-1-93 without any authority and intimation. On 11-1-93 you falsely made entry in attendance register in BO : OHR, Jammu whereas the officer incharge, Jammu has informed that you did not attend the office and also did not perform any duties on the said days.

It is contended by the workman that he replied the charge. Dissatisfying with his reply an Inquiry Officer was appointed. The Inquiry Officer has conducted the inquiry without affording him the proper and fair opportunity of being heard. The workman has challenged the inquiry report being in violation of principle of natural justice and on the perversity in decision making. As per the workman there was no sufficient evidence and material before the Inquiry Officer to hold the charges proved against him.

The management appeared and opposed the claim. It is contended by the management that all possible opportunity of being heard was afforded to the workman and there had been no perversity in decision making.

As per the mechanism adopted by this Tribunal, parties were heard on the issue of fairness of inquiry prior to affording the opportunity for adducing oral evidence on the contention that documentary evidence was sufficient enough to dispose of the preliminary issue on fairness of inquiry. This Tribunal vide order dated 6-7-2010 decided the issue of fairness of inquiry. It was held by this Tribunal that inquiry was properly and fairly conducted by the Inquiry Officer and there had been no violation of any rules by the Inquiry Officer while conducting the inquiry. This Tribunal vide order dated 6-7-2010 has also held that Inquiry Officer has complied with the principles of the natural justice while conducting the inquiry. Vide order dated 6-7-2010, both of the parties were afforded the opportunity to adduce evidence on the issue of perversity in decision making during departmental proceedings and on quantum of punishment. On perusal of order dated 28-9-2010, it is evidently clear that none of the parties availed the opportunity for oral evidence.

It was contended by both of the parties that this reference be answered on the basis of documentary evidence which includes entire inquiry file. Accordingly, evidence of both of the parties on the issues of perversity in decision making and on quantum of punishment was closed. Parties were heard at length and file was reserved for award.

I have to trouble my judicial conscious for limited purpose i.e. perversity in decision making by Inquiry Officer and the disciplinary authority, if any, and quantum of punishment i.e. whether the punishment awarded to the workman was proportionate to commit misconduct? On perusal of both of the charge-sheets, it is evidently clear that workman was charged for committing gross irregularities in making financial transactions. The transactions took place are admitted to the workman. It is the only contention of the workman that transactions took place with the consent of the then Manager incharge Sh. A.K. Labru.

I have gone through the entire materials on record including the inquiry proceedings, evidence recorded by the Inquiry Officer for management and for defence. The management preferred to adduce as more as three witnesses.

The third witness Sh. Kasturba Lal was the material witness, he was cross-examined in detail by the defence representative of the workman. Majority of questions asked by the defence representative relates to other transactions than in question. When the questions were asked on the transactions in question, it was stated by the witness that these transactions were irregular and against the rules and practice of the bank. Unfortunately, the then manager incharge Sh. A. K. Labru was not summoned by the Inquiry Officer for adducing evidence. But the workman asked the Inquiry Officer to summon Sh. A. K. Labru as the defence witness. Accordingly, the evidence of Sh. Labru was recorded as DW1. I have gone through the entire evidence of DW1 recorded by the Inquiry Officer for the reason that defense of the workman entirely rests on the evidence of this witness. At the cost of repetition, the transactions which are said to be irregular are not disputed. The dispute is regarding the nature of transactions. It is the defense and contention of the workman that he did it on the authorization of the then concerned manager Sh. A. K. Labru, whereas Sh. A. K. Labru as defense witness has denied all these contentions. The majority of the questions were asked relating to the transactions not in question. But when the questions relating to the transactions in questions which are in register-3 of the inquiry file were asked, it clearly reveals that the transactions were unauthorized. It is the clear statement of DW1 that he came to know about the transactions after 20 days when concerned register was properly entered and placed before him. It is

also been the contention of DW1 that he informed the Head Office at once and steps were taken for recovery of more than Rs. 3,00,000 from the firm concerned which were transferred under the irregular transactions on which the workmen was charge-sheeted. From the evidence of DW1 it is also clear that the amount was recovered.

Without going in detail and lengthy discussion, it is proper to write that bank is the financial institution. The degree of integrity, honesty and discipline in the institutions like bank which carried on the sole business relating to finance is much more than other administrative department. From the evidence on record, it is clearly established that overdrafts which workmen sanctioned were not within the lawful limits, he was not legally entitled to permit the overdrafts. Moreover, the case is not finished here. He has indulged the services of his relatives, wife and brother to clear the transactions and to justify his acts. This act shows his mala fide intention behind the commission of act. Meaning thereby, there is sufficient material on record that workman has deliberately and maliciously clear the transactions which involved the lacks of rupees (7 lacks +). I am of the firm view that if transactions took place against the settled policy of the bank regarding overdraft and ill-intention is reflected from the evidence, it is not just an irregularity but it amounts to commit fraud with the bank regarding economic and financial transactions. Accordingly, I find no perversity in decision making of the Inquiry Officer. The Inquiry Officer has stated in his report with the assumption that workman has admitted the transaction took place. The nature of transactions was also absolutely proved by the witnesses summoned by the Inquiry Officer for management and by the witnesses in defence. Moreover, the documentary evidence was sufficient and material to peruse before the Inquiry Officer. Thus, there has been no perversity in decision making by the disciplinary authority.

So far as the punishment awarded to the workman is concerned, for me it is not disproportionate to commit misconduct. This Tribunal cannot act as the court of appeal against the decision awarding the punishment to any workman. Some powers have been conferred on the Tribunal vide Section 11A of the Industrial Disputes Act which can only be exercised exceptionally under sparing circumstances. There is no occasion before this Tribunal to exercise and invoke the jurisdiction under Section 11 A and for me, at the cost of repetition, punishment awarded is proportionate to committed misconduct. No interference is called for. Reference is accordingly answered. Let Central Government be approached for publication of Award. Order dated 6-7-2010 passed by this Tribunal on preliminary issue of fairness of inquiry shall be part of the award and enclosed with this Award while sending it to the Central Government for publication. Thereafter, file be consigned to courtroom.

Order dated : 6-7-2010

I have heard the parties on fairness of enquiry. I have also heard the workman in person on the issue of fairness or enquiry in compliance of the circular letter issued and adopted by this Tribunal. As per the circular letter issued by this Tribunal, on the date of filing the pleadings and hearing of the preliminary issue regarding the fairness or enquiry, personal presence of the parties is mandatory so that possibility of settlement of case through ADR mechanism may be taken by this Tribunal by according the opportunity of being heard in person. Workman was heard in person and learned counsels for the parties were also heard.

As per the provisions of the Industrial Disputes Act, 1947, the issue of fairness of enquiry can be adjudicated and disposed off even without according the opportunity for adducing oral evidence, if the documentary evidence filed and relied upon by the parties, in the opinion of the Tribunal is sufficient to dispose off the issue. Complete enquiry file is on record. Proceedings of enquiry in original have also been filed. After going through the materials on record, I was of the view that preliminary issue on fairness of enquiry can be adjudicated and disposed off without according the opportunity for adducing oral evidence of the parties. The same was done by this Tribunal.

I have heard the workman in person. He has considered and admitted the following facts :—

- (1) He has received both of the charge sheets.
- (2) After understanding the contents of the charge sheet he has separately answered the charge sheets.
- (3) His explanation was not accepted by the management and on order of the disciplinary authority an enquiry officer was appointed.
- (4) He has received the order of the disciplinary authority appointing the enquiry officer.
- (5) He appeared before the enquiry officer and was afforded the opportunity for appointing the defence representative.
- (6) The evidence of the management was recorded and he has cross-examined all the witnesses.
- (7) He was also afforded the opportunity for adducing/filing the evidence in defence. He availed this opportunity.

The only grievances on the issue of fairness of the enquiry are that original documents were not supplied to him by the enquiry officer. The workman has stated in person that original cheques were not provided to him. The copies of the rest of the documents were provided by the enquiry officer.

It is one of the charges that few original cheques were destroyed or misplaced by the workman instead of placing and posting the same in appropriate registers. Under such circumstances, it was not possible for the management to provide with the copies of the original documents which were not available in the bank. Moreover, it is not the contention of the workman that copies or those documents which were filed and relied upon by the management during the departmental proceedings were not provided with to him.

There are no personal grievances of the workman against the enquiry officer or the disciplinary authority. While hearing and disposing the issue of enquiry, this Tribunal has to confine itself about the procedure adopted by the enquiry officer and the disciplinary authority and whether the rules of the principle of natural justice were complied with. If there were no procedural lapses while conducting the enquiry and disciplinary proceedings and there had been no violation of the principle of natural justice, the enquiry is bound to be held to be fair and proper. The issue on fairness of enquiry has no nexus with the issue of decision making of the enquiry officer and the disciplinary authority. The decision making of the enquiry officer while holding the charge proved or holding the charge not proved and the disciplinary authority while awarding the punishment may suffer with some perversity. That issue of perversity in decision making of the enquiry officer and the disciplinary authority cannot be the subject matter of discussion while disposing off the issue on fairness of enquiry.

Another issue raised by the workman while hearing on fairness of enquiry is regarding the transfer of overdrafts to one Gulam Hassan. Another plea has been raised regarding the placing of overdrafts. This contention is regarding the decision making of the enquiry officer and the same has no concern with the procedure adopted by the enquiry officer while conducting the enquiry.

Thus, after considering all the facts and circumstances of the case, and hearing the workman in person, I am of the view that a fair and proper enquiry was conducted by the enquiry officer. There have been no procedural lapses while conducting the enquiry. I am also unable to see any violation of any rules of principle of natural justice while conducting the departmental proceedings.

As stated earlier, there is a difference in conducting a fair and proper departmental proceedings and the decision making of the enquiry officer and the disciplinary authority. These two issues are different. On decision making of the authorities during departmental proceedings and on quantum of punishment parties are hereby afforded the opportunity for adducing evidence. After affording the opportunity of being heard following two issues shall be disposed off by this Tribunal :

- (1) The issue of perversity, if any, in decision making during departmental proceedings.
- (2) The quantum of punishment.

Let the file be placed before me for evidence of both of the parties and arguments on 14-09-2010. I have reserved the file for orders without mentioning any date of order, hence, office is directed to inform both of the parties about the order so that both of the parties may put their presence for evidence and arguments.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 21 अप्रैल, 2011

का.आ. 1338.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय -2, धनबाद के पंचाट (संदर्भ संख्या 98/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-4-2011 को प्राप्त हुआ था।

[सं. एल-20012/82/2005-आई आर (सी-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 21st April, 2011

S.O. 1338.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 98/2005) of the Central Government Industrial Tribunal-cum-Labour Court-2, Dhanbad, as shown in the Annexure in the industrial dispute between the employer in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21-4-2011.

[No. L-20012/82/2005-IR (C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT : SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947.

Reference No. 98 of 2005

Parties : Employers in relation to the management of Govindpur Area No. III of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman : Mr. N.G. Arun,
Representative of
workman.

On behalf of the employers : Mr. D. K. Verma,
Advocate.

State : Jharkhand

Industry : Coal

Dhanbad, Dated, the 8th April, 2011.

ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/82/2005-I.R. (C-I), dated, the 2nd November, 2005.

SCHEDULE

“Whether the demand of the Rashtriya Colliery Mazdoor Sangh from the management of BCCL Govindpur Area-III that Sh. Nasiruddin, General Mazdoor Category-II w.e.f. April 1991, in Grade I w.e.f. 1995 and in Spl. Grade w.e.f. 1999 with all consequential benefits justified? If so, to what relief is the workman entitled?”

2. Mr. N. G. Arun, representative of workman and Mr. D. K. Verma, Ld. Advocate for the management are present. But no rejoinder filed on behalf of the workman even to-day, rather a petition has been filed and moved by the aforesaid Ld. Advocate N. G. Arun who is also the representative of the workman, that the present case relates to workman Nasiruddin, a worker of Kharkharee Colliery of Govindpur Area and since he is out of his contact for the last many years, so the Union being unaware of his whereabouts is in difficulty to take any further step in this case and as such it has been prayed for passing Order in it.

3. From the perusal of the case record, I find that the case has been pending for filing a rejoinder by the workman since 25-9-2007, yet despite Regd. Notice dated 26th September, 2007, 10th March, 2008 and 21st October, 2010, the workman neither appeared nor filed any rejoinder on his behalf in this case. It stands clear that since the workman himself is not interested to pursue the case, the Union accordingly represented his uninterestedness in the case. It is the oldest case of the year 2005.

4. Under the circumstances, the present case relating to the demand of the Union concerned for all the consequential benefits because of the workman as a General Mazdoor Cat. II w.e.f. April, 1991, in Grade 2nd and Special Grade w.e.f. 1995 and 1996 respectively has been pending for the last many years from 2007 for filing its rejoinder. Hence, the case is closed and accordingly the order is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 21 अप्रैल, 2011

का.आ. 1339.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.सी.एल. के

प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं.-2 धनबाद के पंचाट (संदर्भ संख्या 12/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-4-2011 को प्राप्त हुआ था।

[सं. एल-20012/138/2000-आई आर (सी-1)]
डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 21st April, 2011

S.O. 1339.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/2001) of the Central Government Industrial Tribunal-cum-Labour Court-2, Dhanbad, as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 21-4-2011.

[No. L-20012/138/2000-IR (C-1)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT : SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947.

Reference No. 12 of 2001

Parties : Employers in relation to the management of M/s. CCL and their workman.

APPEARANCES:

On behalf of the workman : Shri Vivekanand Chaturvedi, the son of the concerned workman.

On behalf of the employers : Mr. D. K. Verma, Advocate.

State : Jharkhand Industry : Coal

Dhanbad, Dated the 11th April, 2011.

ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/138/2000 (C-1), dated the 25th January, 2001.

SCHEDULE

“Whether the action of the management of Karo Open Cast Project-I, B & K Area of M/s. C.C. Ltd. not

to give promotion to Shri N. P. Chaturvedi, Dozer Operator Group “B” is justified? If not, to what relief is the workman concerned entitled and from what date?”

2. Mr. R. R. Prasad, Ld. Advocate for the workman is not present on behalf of the sponsoring Union, namely, Rashtriya Colliery Mazadoor Sangh, Ramgarh, Hazaribagh. Mr. D. K. Verma, the Ld. Advocate for the management is present. But Vivekanand Chaturvedi, who is the son of workman N. P. Chaturvedi, Dozer Operator Group-B, is present, and has stated that previously a petition dated 26-11-2008 was filed on behalf of the sponsoring Union that the workman retired in the year 2006, and had got money (monetary benefits) as Dozer Operator Group-A as per the photo copy of the payment sheet attached therewith for the year 2004, 2005 and July, 2006, so he declined to fight the case. A copy of the petition was received by the concerned Advocate for the management on 27-11-2008.

3. From the perusal of the case record, I find the present case relates to the claim of workman N. P. Chaturvedi, Dozer Operator Group-B for his promotion which was sponsored by the Union in raising the dispute for adjudication. The case has been running for evidence of the management since 23-9-2005 and thereafter, the aforesaid petition was filed on behalf of the sponsoring Union for withdrawal of the case. But so far as the withdrawal of this case is concerned, the industrial dispute being referred by the Ministry of Labour, cannot be withdrawn by the sponsoring Union rather in view of the aforesaid lack lustre of the workman following the payment of his all monetary benefits, to proceed with the case, I find no longer any industrial dispute exists, hence, the case is closed as also conceded by the Ld. Counsel for the management. Accordingly the order is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 21 अप्रैल, 2011

का.आ. 1340.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं.-2 धनबाद के पंचाट (संदर्भ संख्या 38/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-4-2011 को प्राप्त हुआ था।

[सं. एल-20012/100/1995-आई आर (सी-1)]
डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 21st April, 2011

S.O. 1340.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/1996) of the Central Government Industrial Tribunal-cum-Labour

Court-2, Dhanbad, as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21-4-2011.

[No. L-20012/100/1995-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT : Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947.

Reference No. 38 of 1996

Parties : Employers in relation to the management of Damoda Colliery of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the Workman : Mr. Shekhar Sharma, Advocate.

On behalf of the Employers : Mr. B. M. Prasad, Advocate.

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 5th April, 2011

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/100/95-IR (Coal-I), dated, the 19th March, 1996.

SCHEDULE

“Whether the action of the General Manager, Barora Area No. I of M/s. BCCL P.O. Nawagarh, Dist. Dhanbad in dismissing Shri Indrajit Rabidas, U/G General Mazdoor w.e.f. 15/16-3-93 is justified? If not, to what relief is the concerned workman entitled?”

2. The case of the sponsoring Union is that workman Indrajit Rabidas was working as a permanent workman of Damoda Colliery as General Mazdoor from February, 1991 unblemishly since his employment in place of his father who was declared medically unfit, as per the terms of NCWA. The management was under the obligation to provide him such employment which did not pre-suppose that the workman should have some academic qualification. He appeared in the Matriculation examination. Some of his relatives collected his Matriculation Certificate from the school he was reading in, and handed it over to him. He bonafide believed to have passed the Matriculation examination and as such he submitted the copy of the

certificate along with his application for the employment. He was employed as a General Mazdoor in Cat. I, the lowest one in NCWA, so he did not get any special favour for employment in higher category/grade on the basis of matriculation certificate. But subsequently as per Chargesheet No. DC/AR-I/CS/92/2718 dated 28-10-92/2-12-92, he was chargesheeted by the management for submission of his fake matriculation certificate. He denied the charges in his reply, and explained his conduct, yet the management being biased did not consider his reply satisfactory so it was ordered for a domestic enquiry and accordingly a prejudiced enquiry officer was appointed who did not properly hold the enquiry, as he was not given proper and adequate opportunity to defend his case nor he was furnished with the copies of the proceeding of the enquiry or even in the conciliation proceeding at any time. On the basis of enquiry the management subsequently dismissed him from the service of the company, w.e.f. 15/16-3-95 as per the letter No. DC/AR-I/dismissal/93/665 of Deputy C.M.E./Agent of Damoda Colliery, though as per the Certified Standing Order the dismissal order could not be issued by an Officer lower than the appointing authority and the aforesaid Deputy C.M.E./Agent was not his appointing authority. Moreover, copy of the enquiry report was not supplied to him before imposition of the punishment, which was against the principle of natural justice.

3. Further case of the workman as stated in the rejoinder is that he did not intentionally submit the certificate and marksheet as fabricated. He was employed as General Mazdoor in Category-I, the lowest category in time rated w.e.f. 6-2-91 and there is no cadre scheme for future promotion for it. He was entitled for employment in the company even if he was not a Matriculate. He was quite unaware of what the management dealt with his Matriculation certificate and Marksheet which were submitted in good faith. He never expressed his unwillingness to accept the job of a manual labour as required in all other jobs except clerical one. He had though participated in the enquiry, yet he was not given opportunity to cross-examine the management witness, and to produce his own statement or witness; moreover, the punishment was disproportionate to the alleged gravity of the offence against him.

4. Whereas specifically disputing the allegations as alleged on behalf of the workman the case of the management is that the workman at the time of his initial recruitment had declared by enclosing the Certificate of Matriculation and Marksheet that he had passed the examination in 2nd division. He had also produced the School Leaving Certificate. So he was appointed w.e.f. 6-2-91 in the time rated category which has the scope of his promotion as also for his placement in different categories against the internal vacancies in future. On verification of the documents submitted by him from Bihar School Examination Board, Patna the aforesaid Matriculation

Certificate and the Marksheet of the workman were reported to be false and fabricated by some interested persons. Thereupon the workman was chargesheeted for the misconduct and dishonesty in submitting his aforesaid false and fabricated certificates for securing employment on time rated job and also for securing future promotion by stage. If the workman had not produced such certificate he could have been provided with piece rated job of Miner/Loader involving hard manual labour. As such he committed the aforesaid serious misconduct. He had practically admitted his guilt in his explanation but he tried to shift his blame to his relatives which is untenable, as the workman himself had submitted the documents for his own benefits fraudulently. After finding his reply to the chargesheet unsatisfactory, the management appointed Shri R. S. Pandey, the Personnel Manager of Barora as the Enquiry Officer to conduct the departmental enquiry into the charges against the workman. The workman effectively took part in it and availed full opportunity to cross-examine the management witnesses and also to produce his defence witness, though he failed to do so, in support of his claim. So he was fully responsible for the false and fabricated certificates, and the Enquiry Officer held him guilty of the charges levelled against him, by holding the enquiry fairly and properly in accordance with the principle of natural justice. The workman did not raise any objection against the Enquiry Officer or the procedure of his enquiry or any mitigating circumstances for his lesser punishment for it, and the management by considering the misconduct of so much in nature dismissed him from the service after examining all the records. The employment of the dependent is given only on compassionate ground of the premature retirement or death of workman due to medical unfitness or accident causing serious financial crisis in his family.

Finding with reasons

5. In the instant case, WW-1 Indrajit Rabidas, the workman himself on his own behalf, and MW-1 Shri U.S. Prasad, the Senior Personnel Officer, MW-2 Bharat Lal Mahatha, the Office Superintendent and MW-3 R. S. Pandey, the Chief P.M. of Barora Area on behalf of the management have been examined in their respective support.

6. On the perusal of the materials available on the case record, I find the admitted facts are as under :

- (i) Workman Indrajit Rabidas got his appointment as General Mazdoor on 6-2-91 at Damoda Colliery on the compassionate ground, as his father (Shri Manik Chamar, ex-G Mazdoor) was medically declared unfit.
- (ii) The workman is not matriculate, but he declared that he was matriculate in the identification certificate (Ext. M-4) under his signature and photograph (Exts. M-4/1 and M-4/2 respectively). He also identified his signature and photograph (Exts. M-5/1 and

M-5/2 respectively) on the verification (Ext. M-5), and

- (iii) He participated in the domestic enquiry proceeding conducted by the Enquiry Officer R. S. Pandey (MW-3) and signed its all proceeding papers and he had also cross-examined the management's witnesses but later on he denied to have crossed all the management's witness.
- (iv) In course of hearing in the case, the workman was furnished with Enquiry Report (Ext. M-16) on 02-01-06 as per order dated 16-12-2005 of the Tribunal whereby the domestic enquiry was held fair, proper and in accordance with the principle of natural justice, giving the delinquent employee to show how it prejudiced him for its non-supply; and on his reply dated 01-05-06, its hearing was taken along with the hearing of the merit of the case on 12-7-05 for conclusion as the justification of the punishment inflicted upon him.

7. After meticulous study of the evidences of both the parties available on the case record I find the statement of WW-1 Indrajit Rabidas (the workman himself) that at the time of his appointment his one relative had submitted a fake Matriculation Certificate to the management being absolutely contradicts to his unpleaded facts about the submitting of his aforesaid document by his unrelated Union leader K. L. Roy (now dead), but such plea of the workman being the beneficiary of his appointment is unsustainable, because it was his liability to submit the documents for his appointment before the management at the relevant time. The workman cannot disown his liability to do so, though he has admitted all his signatures (Exts. M-4/1 and M-5/1) on his identification certificate and verification Form (Exts. M-4 and M-5 respectively) as well as his photographs (Ext. M-5/2) affixed on his aforesaid verification Form. The workman has admitted to have appeared in the Matriculation Examination under Bihar Secondary Board in 1988 but he did not pass as a candidate of Dugda High School.

8. On the other hand MW-1 U.S. Prasad as the Senior Personnel Officer of Damoda Colliery has stated that the workman had submitted before his appointment different papers including Marksheet, School Leaving Certificate and Admit Card and he got the appointment in January, 1991 following the declaration of his father (Shri Manik Chamar, Ex-G Mazdoor, Damoda Workshop) medically unfit in July, 1990. According to the witness, the Matriculation Certificate as per rule was sent to the Board for verification then as per the report dated 7-8-92 of the Joint Secretary, Bihar School Examination Board, he did not pass Matriculation Examination; consequently the management issued chargesheet to him for it and on finding his reply unsatisfactory, the Enquiry was

set up against him, by appointing Mr. R. S. Pandey, the P. M. as the Enquiry Officer thereof.

9. MW-2, Bharat Lal Mahatha as the Office Superintendent of Barora Area has crystal clearly stated that Manik Chamar (the ex-G. Mazdoor) as their employee was stopped from his service on declaring him medically unfit, so on the declaration Form B having been submitted by him (as Ext. M-1), his son (Indrajit Rabidas, the workman) was appointed on compassionate ground as per his appointment letter (Ext. M-2). The application for such employment of the workman was submitted by his aforesaid father under his LTI along with the two photographs, namely, one of Manik Chamar and other of his son (the workman) and the application is Ext. M-3 which also records the qualification of this workman as Matriculate and the workman had also shown his Matriculation Certificate. Specifically proving the identification Certificate and the verification roll as Exts. M-4 and M-5 (the latter Ext bearing the photograph of the workman as Ext. M-5/2) respectively and the copies of his Admit Card, Marksheet and School Leaving Certificate as Exts. M-6, 7 & 8 respectively, the witness has proved the report of the aforesaid Board as Ext. M-9 which discloses that Indrajit Rabidas did not pass the Matriculation Certificate, his Matriculation Certificate was counterfeit, so he was chargesheeted by the management as per Chargesheet (Ext. M-10), to which the workman submitted his reply (Ext. M-11). Finding his reply unsatisfactory, the Disciplinary Authority ordered for the domestic enquiry against the workman by appointing the Enquiry Officer as per his appointment letter (Ext. M-12). The witness also proved his statement as Ext. M-3 as a witness to the enquiry under the signature of the workman as well as his signature, yet the workman did not cross-examine him over his statement. The witness has denied the employment of the workman was given on the basis of his qualification.

10. MW-3 R. S. Pandey, the Chief Personnel Officer of Sahalpur Colliery, South Eastern Coalfields Ltd. has stated that while in the year 1993 he was posted as the Personnel Manager at Barora Area under the BCCL, he as the Enquiry Officer as per his letter (Ext. M-12) issued Notice (its copy as Ext. M-15) to the workman who on its receipt participated in the Enquiry Proceeding (Ext. M-13 series), in which the representative of the management, the concerned workman and his co-workers signed it and after completing the enquiry, he submitted his enquiry report (Ext. M-16), holding the concerned workman guilty of the charges. To him full opportunity was given to the workman to defend his case at the time of hearing in the domestic enquiry, in which no objection was raised by the workman in the matter of his appointment as the Enquiry Officer and he (MW-3) as the Enquiry Officer conducted the enquiry proceeding against him fairly, proper and in accordance with the principle of natural justice.

11. In the back drop of the case, Mr. Shekhar Sharma, the Ld. Advocate for the sponsoring Union relying upon

the authority : 2004 SCCs (L & S) 961, NTC(WBAB & O) Ltd. and another ... appellants-versus-Anjan K. Saha... respondent (Managing Director, FCIL v. B. Karunakar, (1993) 4SCC 727 followed), has submitted as held therein that 'When the Court can direct a fresh enquiry from the stage of supply of enquiry report the next step in the enquiry of giving opportunity against the proposed penalty can also be directed to be taken, and after the fresh enquiry is over from the stage of supply of enquiry report the employee can be granted opportunity against the penalty in the terms of Clause 14(4) (c) of the Model Standing Order in Sch. I to the Industrial Employment (Standing Orders) Central Rules, 1946. Consequential order if any passed shall abide by the final result of the proceeding. As held in the case of B. Karunakar, (1993) (4) SCC 727 if the employee is cleared of the charges and is reinstated, the Disciplinary Authority would be at liberty to decide according to law how it will treat the period from the date of dismissal till the period of reinstatement and the consequential benefit. (Para-10)'. Whereas Mr. B. M. Prasad, the Ld. Advocate for the management has contended that the present workman was given full opportunity in the fair and proper domestic enquiry and in view of the gravity of the misconduct of giving false information for the purpose of employment as under clause 26-1-12 of the Certified Standing Order for the workmen under establishment of BCCL, he was rightly dismissed from his service and accordingly the action of the management in doing so was quite justified.

12. In the instant case I find that the supply of enquiry report by the management to the workman at the interference of the Tribunal is palpably acknowledged but the management has failed to prove the supply of a copy (Second show cause) of the order passed by the Disciplinary Authority to the workman concerned in respect of awarding him the punishment of dismissal in compliance with clause 27.2.7 of aforesaid Certified Standing Order. In such situation, the submission of Mr. Sharma for the Union at this point in view of the aforesaid ruling of the Apex Court appears to be quite convincing and persuasive.

13. Under the circumstances, the action of the General Manager, Barora Area No. 1 of M/s. B.C.C.L., P.O. Nawagarh, Distt. Dhanbad in dismissing workman Ranjit Rabidas, U/G General Mazdoor w.e.f. 15/16-3-93 is wholly unjustified and illegal. Therefore, the concerned workman is entitled to reinstatement without back wages till the fresh enquiry is over from the stage of supply of second show cause to the workman for hearing over the proposed punishment within three months from the date of the publication of the Award in the Gazette of India, with a direction to the employer that if the employee is cleared of the charges of misconduct and is reinstated, the Disciplinary Authority would be at liberty to treat the period from the date of his dismissal to the period of his reinstatement and the consequential benefits in accordance with law.

KISHORI RAM, Presiding Officer

नई दिल्ली, 21 अप्रैल, 2011

का.अ. 1341.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/36/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 21-4-2011 को प्राप्त हुआ था।

[सं. एल-12012/28/1997-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 21st April, 2011

S.O. 1341.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/36/98) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 21-4-2011.

[No. L-12012/28/1997-IR(B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/36/98

PRESIDING OFFICER : SHRI MOHD. SHAKIR HASAN

Shri Arun Kumar Sahu,
C/o Ram Gopal Sahu,
H.No. 452, Sahu Mohalla,
Behind Datt Mandir,
Golbazar Ward, Jabalpur

... Workman

Versus

Branch Manager,
Bank of Baroda, 33,
Napier Town,
Jabalpur (MP)

... Management

AWARD

(Passed on this 7th day of April, 2011)

1. The Government of India, Ministry of Labour vide its Notification No. L-12012/28/97-IR(B-II) dated 27-2-1998 has referred the following dispute for adjudication by this tribunal:-

“Whether the action of the management of Bank of Baroda, in terminating the service of Shri Arun Kumar Sahu, Peon, w.e.f. 15-9-95 is legal and justified? If not, to what relief the said workman is entitled?”

2. The case of the workman in short, is that Shri Arun Kumar Sahu was engaged as a daily wages peon in the Bank of Baroda, Napier Town Branch w.e.f. 17-5-1989 and worked continuously till his termination by oral order on 15-9-95. It is stated that no notice nor any retrenchment compensation was paid before terminating him from service as required under the provision of Industrial Disputes Act, 1947 (in short the Act, 1947). The management ought to have obtained permission strictly in accordance with Section 25-N of the Act, 1947 from the appropriate Government. It is stated that the workman worked in the year 1989-147 days, in the year 1990-185 days, in the year 1991-277 days, in the year 1992-341 days, in the year 1993-355 days, in the year 1994-308 days and in the year 1995 till 15-9-95-176 days. He was paid bonus during his tenure. His juniors are still working in various branches of the Bank. On these grounds, it is submitted that the workman be reinstated with back wages.

3. The management appeared in the reference case and filed Written Statement. The case of the management, inter alia, is that the workman was engaged illegally. He was engaged by the Branch Manager as daily wages employee who was neither empowered to make such appointment nor competent to appoint any employee. Again further it is stated that the Branch Manager had given certain advantage for the purpose of getting the miscellaneous work done in the Bank and amount paid by them was compensated or reimbursed by the Bank. The workman was engaged on reimbursement basis and he was not workman of the Bank. It is further stated that the workman was a daily wages employee and the contract of employment started in the morning and came to an automatic end at the end of the day. The engagement was on contract basis and it comes under the purview of Section 2(oo) (bb) of the Act, 1947. The further case of the management is that the Bank decided to discontinue all casual employees and as one time exemption from Govt. of India, Ministry of Labour, relaxation was obtained during 1995 for recruitment of 681 casual employees without routing through Employment Exchange. The name of the workman in the list of 681 casual employees did not appear and as such his case cannot be considered. On these grounds, it is submitted that the reference be answered in favour of the management.

4. On the basis of the pleadings of the parties, the following issues are framed for adjudication—

- I. Whether the action of the management of Bank of Baroda in terminating the services of the workman w.e.f. 15-9-95 is legal and justified?
- II. To what relief the workman is entitled?

5. The following facts appear to be admitted by the parties—

- a. Shri Arun Kumar Sahu was engaged on daily wages by the Bank Manager.

b. The Bank Manager had given certain advantage for engaging casual employee for the purpose of getting the miscellaneous work done in the Bank.

c. The amount of wages paid to the daily wagger was reimbursed by the Bank.

6. It also appears that certain facts are not denied by the management Bank which are deemed to be admitted—

a. The workman worked in the year 1989–147 days, in the year 1990–185 days, in the year 1991–277 days, in the year 1992–341 days, in the year 1993–355 days, in the year 1994–308 days and in the year 1995 till 15-9-95–176 days.

b. No notice was given to the workman before terminating/disengaging him.

c. No retrenchment compensation was paid to the workman under the provision of Section 25-F of the Act, 1947.

d. He was also paid bonus during the tenure.

7. Now let us examine the evidence of the parties. To prove the case, the workman has adduced oral and documentary evidence. The workman Shri Arun Kumar Sahu has supported his case in his evidence. He has stated that he was appointed on 17-5-89 at Napier Town Branch of Bank of Baroda as peon and worked continuously till 14-9-95. He was terminated orally on 15-9-95 without notice and without any retrenchment compensation. He had worked 240 days in a calendar year before termination. The learned counsel for the management has submitted that this witness has stated that he cannot say presently that how many days he worked each year from 1989 to 1995. This appears to be not vital because the engagement is not denied. It is simply denied that he had not worked 240 days in each calendar year and specially 12 months preceding the date with reference. The management is custodian of the records of its employees. The workman is admittedly daily earner worker. When the workman claims to have worked for more than 240 days in the last preceding months entitling the benefit of 25 F of the Act, 1947, then it is the bounded duty of the management to produce the relevant records to rebut the claim. In the decision reported in 2011 LAB.I.C.(NOC)70 (P&H) Bharat Bhushan Vrs. Chandigarh Administration and Others, the Hon'ble Court has held that adverse inference is to be drawn against the management. The workman has also filed certificates of the Bank's Managers which are paper Nos. 8/9 to 8/11. These documents are not denied by the management rather the management witness Shri Randhir Kr. Sahani who was Branch Manager at the relevant time has admitted at para-3 that he had given the certificate (Paper No. 8/9). The certificates corroborate the case of the workman. Thus it is clear that the workman worked more than 240 days in a calendar year specially 12 months preceding the date of reference.

8. The management has examined two witnesses in the case. The management witness Shri M.F. Hussain is Senior Manager (P) of Zonal Office, Bhopal. He has stated at Para 7 in his evidence that the applicant/workman was engaged by the Branch Manager as a daily wage employee. He has no authority to appoint subordinate staff. Admittedly daily wagger is not regular subordinate staff. He has further himself admitted in cross-examination that the Branch Manager may engage daily wages employee on emergency for limited time. This clearly shows that the engagement was legal and the continuation of his service shows that emergency existed.

9. Another management witness Shri Randhir Kumar Sahani is also Senior Branch Manager. He was Branch Manager at Napier Town at the relevant period. He has admitted that the applicant was engaged as a daily wagger. The Branch Manager had given certain advantage for the purpose of getting the miscellaneous work done in the Bank. He has stated that he was paid wages by obtaining his signature on the vouchers. The vouchers were withheld by the management which may establish the period of engagement. He has stated that he had informed the Regional Office about the engagement of daily wagger and daily wagger was engaged on exigency. This itself shows that there was no contract of appointment for a fixed period. The certificate paper Nos. 8/9 to 8/11 clearly show that exigency of work was continuous for long time. There is no denial that he had not worked 240 days in a calendar year specially 12 months preceding the date of reference. It is an admitted fact that no notice was given before termination nor any compensation was given of the period he worked. This clearly shows that there is a violation of Section 25-F of the Act, 1947 and termination is not justified.

10. The learned counsel for the management argued that it is true that he was engaged as daily earner employee but his contract of work started in the morning and came to an end in the evening. As such he was on contract and he was terminated on non-renewal of the contract. The provision of Section 2(oo)(bb) of the Act, 1947 is attracted. The learned counsel for the workman submitted that there was no such contract and the evidence adduced by the workman shows that he was in continuous service as provided in Section 25(B)(2) of the Act. His termination is retrenchment and Section 2(oo) of the Act, 1947 is applicable. Admittedly he was daily wagger employee. It is established that he worked more than 240 days in a calendar year specially preceding the date with reference. This shows that the provision of Section 2(oo)(bb) is not attracted as there was no contract. Thus this issue is decided in favour of the workman and against the management.

11. Issue No. II

On the basis of the discussion made above, it is clear that the termination was illegal and unjustified without

complying the provision of Section 25-F of the Act, 1947. The workman is entitled to be reinstated with back wages. Accordingly the management is directed to reinstate the workman with back wages. The reference is answered.

12. In the result, the award is passed without any order to costs.

13. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 27 अप्रैल, 2011

का.आ. 1342.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई डी बी आई लि. (एचआरडी) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 94/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 21-4-2011 प्राप्त हुआ था।

[सं. एल-12011/87/2009-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 27th April, 2011

S.O. 1342.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 94/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Human Resources Department, IDBI Ltd., and their workman, received by the Central Government on 21-4-2011.

[No. L-12011/87/2009-IR(B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 15th April, 2011

Present : A.N. JANARDANAN, Presiding Officer

INDUSTRIAL DISPUTE No. 94/2009

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of IDBI Ltd. and their Workmen)

BETWEEN

The Secretary
IDBI Employees Association
115, Anna Salai

Saidapet
Chennai-600015

I Party/Petitioner

Vs.

The General Manager
Human Resources Department
IDBI Ltd.
Chennai Branch Office,
115, Anna Salai
Saidapet
Chennai-600015

2nd Party/Respondent

APPEARANCE:

For the 1st Party/
Petitioner : Sri A. Govindasamy,
Advocate

For the 2nd Party/
Management : M/s NVS. & Associates,
Advocates

AWARD

The Central Government, Ministry of Labour vide its Order No. L-12011/87/2009-IR (B-II) dated 4-11-2009 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the impugned transfer order dated 24th January, 2009 issued by the management of IDBI transferring Smt. R. Saraswathi, Special Assistant and 7 others is legal and justified? What relief the workman concerned are entitled to?"

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 94/2009 and issued notices to both sides. Both sides entered appearance through their Advocates and filed their Claim, Counter and Rejoinder Statement as the case may be. The ID stood once decided ex-parte against the Respondent since in spite of issuance of notice initially it failed to appear and contest the matter. Getting the ex-parte award dated 20-01-2010 set aside at the instance of the Respondent with approval of the petitioner the ID was got restored to file. Thereafter the same was put on enquiry after granting reasonable opportunity to either side to produce evidence and documents on which they want to place reliance. Accordingly the revised award is being passed after enquiry and hearing.

3. The contentions raised in the Claim Statement briefly read as follows :

The Respondent by unilateral, arbitrary and malafide orders effected inter-mobility in the name of transfer on administrative requirements vide Office Order No. 3984 dated 24-1-2009 in respect of 8 Clerical employees of Chennai Branch Office (erstwhile Development Bank Segment) to other branches of Commercial Bank Segments. It is prayed that an award may be passed holding that the order transferring Smt. R. Saraswati, Special Asstt. and 7 others is illegal and not

justified and directing the Respondent to annul the transfer orders and to post them back to their parent office. Recruitment of staff is done only office-wise. During the last 30 years staff of Chennai Branch Office were, not liable for inter-office transfers. In fact it had not been allowed also. By IDBI (Transfer of Undertaking and Repeal) Act, 2003, IDBI was converted into a deemed banking company to attend to banking business too. Under Section-5(i) of the IDBI Bill, 2002 the conditions of service and other terms of employees were to remain unchanged. Pending finalization of integration plan it was agreed that there would be no inter-mobility of workmen between the two segments. No integration plan as above has so far been entered. There is adequate work for the Special Assistants in Chennai office. But they have been transferred to Commercial Bank branches where there is no such post. The transfer is in violation of provisions. It is not a question of simple transfer but of exposing the employees to a new environment and to do such types of work to which they are not used to as the job profile and content, working conditions, working hours, wages, service conditions and is against subsisting bipartite settlement and without any discussion. It is also in breach of assurances given by successive Hon'ble Finance Ministers in Parliament in safeguarding the terms and conditions of service of the employees. The order is without jurisdiction, violative of Section-5(i), contrary to the solemn assurance of the Hon'ble Finance Minister, without giving notice under Section-9A of the ID Act, in contravention of bipartite settlement dated 16-08-2005 and without providing for adequate medical facilities including to female staff violating subsisting settlements on promotional avenues violative of Article-14 and 16 as well as being hit by doctrine of promissory estoppel and legitimate expectation. Hence the prayer.

4. Counter Statement contentions bereft of unnecessary details are as follows :

The erstwhile Industrial Development Bank of India (IDBI) was established as a Statutory Corporation under the IDBI Act, 1964 intended to act as a vehicle for the promotion and development of industries. It was autonomous, All India Term Lending Financial Institution. By virtue of the IDBI (Transfer of Undertaking and Repeal) Act, 2003 it was transferred to and vested in the IDBI Bank Ltd. as a Banking Company as under Section-5(c) of the Banking Regulation Act, 1949 with registered office at Mumbai w.e.f. 1-10-2004. All contracts, deeds, guarantees, power of attorneys, other instruments and working arrangements subsisting immediately before October 1, 2004 and affecting the Development Bank ceased to have effect or to be enforceable against the Development Bank and were in full force and effect against or in favour of the IDBI Bank Ltd. IDBI Bank Ltd. was thereafter permitted to conduct, inter-alia, the Banking business. Reserve Bank notified IDBI Ltd. as a Scheduled Bank on 30-9-2004 and also categorized as "Other Public Sector Bank". Government of India holds more than 51% of the Equity Share Capital of IDBI Ltd. In terms of Section-5(1)

of IDBI Repeal Act, every Officer or other employee of the Development Bank serving immediately before the appointed day shall in so far as such Officer or other employee is employed in connection with the undertaking which has vested in the IDBI Bank, become, as from the appointed day, an Officer or, other employee of the IDBI Bank Ltd. and shall hold office by the same tenure at the same remuneration, for the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, to leave fare concession, welfare scheme, medical benefit scheme, insurance, provident fund, other funds, retirement, voluntary retirement, gratuity and other benefits as he would have held under the Development Bank if its undertaking had not vested in IDBI Bank Ltd. and shall continue to do so as an Officer or other employee of IDBI Bank Ltd. or until the expiry of a period of 6 months from the appointed day if the employee opts not to continue to be so of the 1st Party Bank within such period. Reserve Bank of India as per order dated 1-4-2005 issued under Sub-Section(4) of Section-44A of the Banking Regulation Act, 1949 sanctioned the scheme of amalgamation of erstwhile IDBI Bank Ltd. (a subsidiary of the Development Bank and the then Industrial Development of India) with the present IDBI Bank Ltd. w.e.f. 2-4-2005. In terms of Clause-2.12 of the Scheme of Amalgamation on and with effect from 2-4-2005 (effective date) the existing businesses and employees of the erstwhile IDBI Bank Ltd. and the present IDBI Bank Ltd. respectively were to be organized as a separate strategic business unit (the "SBU's") named as the Commercial Bank SBU (the "CBSBU") and Development Bank SBU (the "DBSBU") within IDBI Ltd. with overlapping and common functions if any, being housed in one of the SBU's based on skill-sets available, as may be determined by the Board of the Directors IDBI Bank Ltd., in order to leverage effective performance for the combined entity. Subject to applicable laws and rules, regulations and policies framed thereunder, the CBSBU could be provided with an enabling environment so that it can continue its business, operating and human resource policies and enhance the erstwhile IDBI Bank Ltd. (Transferor Bank's) business, operations and performance (including in relation to recruitment, delegation and empowerment, and market related compensation structure) (benchmarked to the peer group including in Private and foreign Sector but strictly based on merit) in the manner that it would deem beneficial and run the same as a performance oriented meritocracy. The SBU structure would be continued until the Board of Directors of IDBI Bank Ltd. determines that Human Resources and Operating Policies of all SBU's are sufficiently harmonized, subject however to a minimum period of 3 years. The erstwhile IDBI Bank Ltd. was completely manned by Officers and there was no workmen staff. Manual activities were completely outsourced and no workmen were employed by erstwhile IDBI Bank Ltd. Government of India, Ministry of Finance as per Notification dated 30-09-2006 approved another scheme of amalgamation of the erstwhile United Western

Bank Ltd. with IDBI Bank Ltd. which came into effect from 3-10-2006. By virtue of this amalgamation all workmen employees of erstwhile United Western Bank were absorbed by IDBI Bank Ltd. in its employment. Thus there existed 3 segments of employees, viz. employees of Development Bank, erstwhile IDBI Bank Ltd., erstwhile United Western Bank and also the employees recruited by the present IDBI Bank Ltd. each having different conditions of service, particularly relating to compensation structure, etc. IDBI Bank's administrative policies are in adherence with the extant Government of India guidelines. Pursuant to the banking operations Respondent opened many branches all over India and have deployed its officials, employees there from existing branches. It was in order to have experienced employees in the new branches for meeting competitiveness and facility for better customer satisfaction. The transfers were made also taking into consideration the convenience of the employees. It was in this context the impugned transfers were made but subject to rules and service conditions concerning them. They were transferred for the first time and it was due to business exigencies. The transfer is without ill-will, malice or malafides. It is without a breach of contract for employment. IDBEA Chennai represents only 2% of the workmen of the bank. Thus it is not a representative union of a significant minority. Bank is having in its rolls about 2670 workmen. It is beyond the domain of the Union to espouse the cause. Transfer is an incidence of employment. The bank is entitled to utilize the services of the 8 employees in a productive and efficient manner. Under Clause-2 and 2(3) of the Memorandum of Settlement dated 16-8-2005 bank can re-deploy existing incumbents keeping with change in technology and work processes. The terms and conditions have not been varied to the disadvantage of the employees. Under Rule-26 of the IDBI (Staff) Rules, 1980 the employees are liable to serve at any place required by the Management. There is no requirement of notice to be given under Section-9A of the ID Act, 1947. Here it is only a case of transfer of intra-city movement and not inter-city movement. No parity has ceased to be maintained by IDBI Employees with RBI Employees. The bank has not made any departure from the established practices by effecting the present manpower allocation which was done even earlier within city where there were multiple branches such as Mumbai depending upon staff requirements. The transfer issue revolves around the true and correct interpretation of Section-5(i) of IDBI Repeal Act. Section-5(i) of the Repeal Act also contemplates VRS scheme and 6 months exit window was given to the then employees who decided to opt to continue or not. The said section cannot be interpreted to stifle the business operations, branch expansion or manpower allocation. Even the committee felt that on becoming a banking company employees may have to be posted to new locations. The deployment of 8 clerical employees within Chennai only demonstrates the steps taken by the bank for meeting the demands and aspirations of the members of AIDBEA to be part of retail business segment. In Ahmedabad in the wake of

a similar industrial dispute arisen, under a Memorandum of Settlement signed the transferred employees resumed duties at the new locations voluntarily. Relocations and transfers are incidental and inevitable in a growing and expanding bank like IDBI Bank. It cannot be termed as a change in service condition. Section-9A of ID Act does not provide for notice before transferring employees. Under the Scheme of Amalgamation with United Western Bank and IDBI a clause was stipulated that within 3 years the terms and conditions of the transferee bank would become applicable to transferor bank subject to comparable qualifications and experience. Harmonization of terms and conditions of services in respect of workmen staff has already been proposed, though yet to be implemented being a matter pending before conciliation authorities. Presently there is no distinction of banks business into Development Banking Segment and Retail Banking Segment. In the current relocation of 8 employees there is no change of centre. Settlement dated 16-08-2005 did not bar re-deploying of manpower. The redeployment of employees to other branches within Chennai for optimum use is legitimate and also to secure employees from redundancy. Bank is in the process of relocating the business groups pertaining to corporate vertical to other locations for administrative convenience. Re-deployment of 8 clerical employees was done in order to gainfully utilize their services with higher probability of learning the nuances of work. The dispute is based on misplaced apprehension and is devoid of any substance. There is no change of service conditions of the employees, whatever, consequent to transfer. In terms of Articles of Association of IDBI Ltd. the Board of Directors has powers to modify the terms and conditions of service of IDBI employees of IDBI Bank. By the transfer of the employees there has not been any change of service conditions of the employees so as to require issuing of notice under Section-9A of the ID Act. Redeployment of employees is a bonafide management function and there is no contravention of the Bipartite Settlement dated 16-08-2005. There is no contravention of provisions of various settlements or settlements on promotional avenues. No fundamental rights of the employees under the Constitution have been violated. The ID is to be dismissed.

5. The contentions in the rejoinder bereft of unnecessary details are as follows :-

Under Section-5(i) of the Repeal Act, 2003 employees who do not opt to quit are protected in perpetuity with regard to their existing terms and conditions of service. The transferred workmen had been working only in the development bank segment and had no experience of commercial bank functions. The impugned action is in contravention of the IDBI Repeal Act with regard to employees continuing upon the same terms and conditions of service. Officers belonging to transferable cadre were asked to give options for posting

to banking branches as per circular dated 16-05-2006, which was not resorted to in the case of Clerical Staff which is discriminatory and malafide. The transferred employees reported at the transferee branches under protest. Workmen cadre was not transferable. Even request transfers were rejected. Those favoured were placed junior most in the transferee office. Case of Smt. Saroja Anbusamy transferred to Coimbatore Branch from Chennai Branch on 28-4-2009 is an example. On failure of conciliation on 1-9-2009 and on a decision for reference Management brazenly implemented the impugned transfer order on 6-5-2009 violating the law. It shows the malafide intention. Petitioner represents the workmen employees of erstwhile IDBI Ltd. attached to Chennai, etc. Contention to the contra is false. Petitioner's Association is an independent legal entity constituting 97% of the membership. Petitioner has every right to espouse the cause. The issue is not simple transfer but affecting inter-mobility in the case of administrative requirements to various branches with separate terms and conditions of service exposing them to alien work atmosphere and environment without a discussion with them. Posts of Special Assistants were never thought of being abolished under the settlement dated 16-08-2005. No question of redundancy of the post of Special Assistant does arise. Redeployment of the Special Assistants is contrary to the settlement. There is no cadre of Special Assistants in the transferee branches. The redeployment is unfair labour practice. Settlement dated 16-08-2005 does not accord authority to the Management to redeploy staff members to commercial banking segment. Since the inter-mobility of workmen was in violation of statutory provisions the same can be interfered with. As a factual position Chennai Branch Office of erstwhile development branch has been assigned the status of corporate owned branch on 04-02-2009 and the commercial bank branch there has also been renamed as Specialized Corporate Branch. That there is no branch concept after introduction of vertical business model is devoid of merit. The transferred employees were not liable for inter-office transfers as a policy during the last 30 years. Mumbai branches were not multiple branches but only multiple departments where the employees will be required to attend to similar type of work. As per executive order of Reserve Bank of India only IDBI Ltd. post conversion as deemed banking company was categorized under a new sub-group—other Public Sector Banks. Move for VRS is an independent action unrelated to the Repeal Act, 2003. Interpretation of the Respondent that employees who have opted to continue in the services of the bank have by their own conduct agreed for posting to new locations is travesty of truth. In fact the statute provides for "exit" option and not "ingress" option since Section-5(i) of the Act contemplates automatic continuance of all employees in the new dispensation as and from the appointed date on the same terms and conditions of service they would

have held under the Development Bank if had not vested. By conscious misinterpretation Respondent is trying to stifle the morale of workmen employees by effecting unilateral changes in the terms and conditions of their service with a view to annul Section-5(i) of the statute. Respondent is also trying to misread the issue of inter-mobility in isolation to accord post facto justification to its impugned decision. In the supplementary settlement dated 16-08-2005 the issue of inter-mobility and filling up of consequential vacancies do not find a place. That there is no distinction between bank's business in development banking and retail banking is not only travesty of truth but also deriding the sanctity of IDBI Repeal Act which specifically mandates that IDBI will attend to commercial banking activity in addition to development bank activity. The impugned transfer is beyond the scope of the Management since the branch concept has not been dismantled and re-organization of business structure cannot have overriding effect on subsisting settlements. That most of the corporate verticals viz. infrastructure corporate group, large corporate group, mid corporate and retail vertical viz. small and medium enterprises do not involve much work which are clerical in nature is only malicious and without any rationale except to justify its impugned decision to relocate the transferred employees. The impugned transfer order tantamount to change in service conditions and is in violation of Section-5(i) IDBI Repeal Act and Section-25(FF)(b) of the ID Act.

6. Points for consideration are :

- (i) Whether the transfer order, dated 24-1-2009 of the Management IDBI transferring Smt. R. Saraswati and 7 Others is legal and justified ?
- (ii) To what relief the concerned workmen are entitled ?

7. Evidence consists of the oral evidence of WW1 and Ex.W1 to Ex.W43 on the petitioner's side and the testimony of MW1 and MW2 and Ex.M1 to 32 on the Respondent's side.

Points (i) & (ii)

8. Heard arguments on both sides and perused the written submissions, evidence and documents produced on either side. The learned counsel on both sides keenly argued in support of their claim and counter claim as the case may be as pleaded referring to different rules and statutes and also placing reliance on reported rulings of superior courts and case laws. The thrust of the contentions on behalf of the petitioner association on the basis of the material pleadings in the Claim and Rejoinder Statement in their cumulative effect is that the transfer of 8 Special Assistants from Chennai Branch Office of the erstwhile Development Bank Segment to

other branches of Commercial Bank Segment effecting inter-mobility in the name of transfer on administrative requirements as per order dated 24-01-2009 is unilateral, arbitrary and malafide and the same is sought to be annulled. According to the petitioner association recruitment of staff is done only office-wise and during the last 30 years the staff of Chennai Branch Office was neither liable nor transferred on inter office basis. According to them it was never allowed or was in contemplation. Under Section-5(i) of IDBI Bill, 2002 the conditions of service of the employees were to remain intact. Pending finalization of integration plan there was not to be any inter-mobility of workmen between the two segments. No such integration plan has ever been formulated. The impugned transfer is not one of simple transfer but is one exposing the employees to a new environment and to do such types of work to which they are not used to as the job profile and content, working conditions, working hours, wages, service conditions, etc. without discussion. The order is one without giving notice under Section-9A of the ID Act and is again in contravention of Bipartite Settlement dated 16-08-2005 with no provision for adequate medical facilities to the employees including female staff. Above all it is thus violative of Article-14 and 16 of the Constitution. It is also against legitimate expectation as well as being hit by doctrine promissory estoppel. The arguments further go on to say that there is protection to the employees under Section-5(i) of the Repeal Act, 2003 who are continuing in service on exercising option to that direction in regard to their existing terms and conditions of service. The employees are in non-transferable cadre. In the case of Officers of transferable cadre they were transferred only after obtaining options from them which was not done in the case of employees treating them in a discriminatory manner with malafides. Prior to transfers in question even transfers on request were rejected. Transfer of the employees is contrary to settlement. There is no cadre of Special Assistants in transferee branches. The order amounts to unfair labour practice. Settlement dated 16-08-2005 does not accord authority to transfer the employees. The employees were not liable for inter office transfers as a policy during the last 30 years. There is conscious misinterpretation of Section-5(i) of Repeal Act, 2003. There is violation of Section-25(FF)(b) of the ID Act.

9. The contra contentions emerging with eloquence on the Respondent's side are that under Section-5(i) of the IDBI Repeal Act every Officer or employee of the transferer bank shall be officer or other employee of IDBI Bank Ltd. on the same terms and conditions in every respect as he or she would have had under the erstwhile Development Bank if it had not vested in IDBI Bank Ltd. The same status is to continue for a period of 6 months from the appointed day viz. 01-10-2004 if the employee does not opt to continue to be so. With the commencement

of the banking operations many branches of the new entity were opened all over India and officials and employees were deployed to such branches from existing branches in order to make use of the experience of the existing employees for the better functioning of the new branches. Such transfers were effected causing the least in convenience to the concerned employees. The transfers were made subject to rules and service conditions. Though the transfers were for the first time they were made for business exigencies and were done without ill-will, malice or malafides. It is without breach of contract for employment. Transfer is an incidence of employment. The Management is entitled to utilize the services of the employees in a productive and efficient manner. The settlement dated 16-08-2005 under Clause-2(3) enables redeployment of existing incumbents. Under Rule-26 of the IDBI (Staff) Rules, 1980 employees are liable to serve at any place. There is no requirement of notice to be given under Section-9A of the ID Act. The impugned transfers are intra-city and not inter-city movements. Manpower allocation had been done earlier too within city where there were multiple branches such as in Mumbai. Section-5(i) of Repeal Act, 2003 in its proper interpretation or construction enables the transfer impugned herein. In fact the transfers were real materialization of the aspirations and demands of the Association Members to be part of retail business segment. Such deployments are incidental and inevitable in a growing and expanding bank like IDBI Bank. It never tantamounts to change in service condition. Harmonization of terms and conditions of services of the workmen are in the process of implementation. There is no change of centre of working of the employees owing to the transfer. The dispute is based on misplaced apprehension and is devoid of any substance. Power to modify the terms and conditions of IDBI employees is with the Board of Directors under the Articles of Association of IDBI Ltd. Re-deployment of the employees is a bonafide Management function and there is no contravention of any statute, rules or settlement. It is equally true to say that there is no violation of any constitutional provisions.

10. On anxious analysis and consideration of the pros and cons of the contentions placed before me, I am led to the inevitable conclusion that the petitioner is not entitled to succeed. While the petitioner alleges violation of statutory rules, agreements, Bipartite Settlements, etc. in the matter of re-deploying the 8 employees to different branches of the newly constituted IDBI Bank Ltd., they have not been able to substantiate how the impugned transfer is illegal for all or any of the reasons stated by them. The appointment of the concerned employees to the erstwhile IDBI Development Bank Ltd. when were made, merely by reason of not mentioning in the order that the employees are not liable to any transfer or that they are liable to be transferred to any other branches cannot be taken as a circumstance to hold that they are

not at all liable to be transferred to any other branch or office if the Management wants them to be transferred in public interest. Really speaking the mentioning or non-mentioning about the liability for or not for a transfer to any other branch or office could not have been in contemplation at all for the simple reason that the original appointment of the employees took place at a time when there was only a unique solitary branch or office of the erstwhile bank in the State or the Centre at that time. In other words, this situation did not give rise to a necessity of mentioning about the liability or duty of an employee appointed to serve in any other branch in the city. Such a position cannot and need not connote an idea that by reason of not mentioning about the liability of a transfer for the employee his or her post is a non-transferable one. The other case of the petitioner is that the employees stood without any transfer for the last 30 years as a matter of policy. What this version of the case of the petitioner indicates is that the transfer of the employee was not effected not being inhibited by or under any statutory rules, settlement or on the mandate of any service conditions but it was only under a policy. In other words, the Management did not want them to be transferred because of want of a policy to transfer the employees which in turn was for want of any necessity for transferring them. What this points out is that whenever the Management wanted an employee to be transferred it could have very well done so in public interest. The settled law is that a transfer is always the prerogative of the Government/Management. If the transfer is not motivated by ill will, malice or malafides it is never to be interfered with by a Court or Tribunal. The petitioner has not been able to point out any statutory rules or provisions or settlements under which they are protected from any transfer not to their like if their transfer is necessary and it has been effected by the Management to protect its interests. Though, even transfers at request were not favoured by the Management but were being done reluctantly and that too with conditions detrimental to the interest of the transferred employee, the same cannot be a sustainable argument for the petitioner to hold that the transfers of the present employees were outside the purview of the Management.

11. The fact that by the impugned transfer the employees may have been put to some new environment in regard to their work profile, etc. rendering some difficulty for them to cope up with the new situations might at best be some instances of worry or concern occasioned to the employees but the same cannot be attributed as a reason to challenge that their transfer is against their service conditions which they had been enjoying till then. While a transfer may also fall within the concept of change of service conditions depending upon facts and circumstances of a particular case in the case on hand it cannot be so understood for the reason that as far as the

employees are concerned their transferability or otherwise is never a factor finding expression mentioned in their contract for employment as a condition of service. There cannot be any violation of Section-9A of the ID Act in the given facts and circumstances of the case in relation to the employees.

12. Rule-26 of the IDBI (Staff) Rules, 1980 fastens liability on the employees to be transferred in the interest of service. A contra construction is illogical and irrelevant in the context of this case.

13. Section 5(i) of the IDBI Repeal Act, 2003 when reasonably interpreted it would convey no idea other than that under which the employees are liable to be transferred to the new entity. Any argument to the contra is only to be rejected as absurd. The petitioner could not be found to have a consistent case with a sound edifice in pleadings, facts or law to sustain their contention that the impugned transfers are violative of rules, statutes, settlements or any of the constitutional provisions. It is equally so as regards principles of natural justice. When for meeting administrative exigencies the Management has to carry out such orders of transfers or redeployments which when cannot be termed as prejudicial to the interest of the transferees there has not been any violation of principles of natural justice. The instances quoted on behalf of the petitioner in which Officers were transferred were asked to give options regarding the places to be transferred, according to me cannot afford to furnish sufficient materials to hold that the employees have been discriminated in the matter of transfer or in meting out equal treatment. Here is a case of employees whose transfers effected are causing the least inconvenience to them. The impugned transfers are evidently only intra-city transfers and not inter-city transfers. It is difficult to read in any discriminatory treatment meted out on the workmen in the matter of transfer in relation to the Officers transfer. The impugned transfers are necessitated by the genuine interest of the Management. There is no doctrine of promissory estoppels attracted to the facts of the case. Open declarations of dignitaries in any forum before or without being formulated into enforceable instructions or mandates having the force of a rule cannot influence an administrative decision. Assailing an order of transfer as being against legitimate expectation is also not to be countenanced the same being without any legal support. As rightly pointed out by the learned respondent's counsel the dispute is on misconceived apprehension and is without any substance.

14. The rulings relied on behalf of the petitioner are viz. (i) Reserve Bank of India and Others Vs. C.N. Sahasranaman and Others (1986-SUPP-SC-143) (ii) K.I. Shephard and Others Vs. Union of India and Others (1987-4-SCC-431) (iii) Vasant Kumar Jaiswal Vs. State of Madhya Pradesh (1987-4-SCC-450) holding that "no employee can

be transferred without his consent from one employer to another', Balco Captive Power Plant Mazdoor Sangh and Another Vs. National Thermal Power Corporation and Others (2007-14-SCC-234) holding that "in the event of transfer to successor organization or new management, the terms and conditions of such transfer shall not be inferior to those enjoyed by the employees on the date of transfer" and also holding that "government or its instrumentality cannot alter the conditions of service of its employees and any such alteration causing prejudice cannot be effected without affording opportunity of pre-decisional hearing and the same would amount to arbitrary and violative of Article-14", Kundan Sugar Mills Vs. Ziauddin and Others (1960-2-SCR-918), Manager, Ms. Pyar Chand Kesarimal Porwal Bidi Factory Vs. Omkar Laxman Thenge and Others (1969-2-SCR-272), and Tejashree Ghad and Others Vs. Prakash Parshuram Patil and Others (2007-6-SCC-220) are not relevant or applicable to the facts of the present case.

15. On behalf of the Respondent reliance was placed on the decisions of the Supreme Court in

Raghunath Rai Parija and Another Vs. Punjab National Bank and Others (MANU-SC-5456-2006) wherein it was held that cardinal principle of interpretation of statutes is that the words of a statute must be understood in a natural, ordinary or popular sense.

In the case of Parry and Co. Ltd Vs. P.C. Pal and Others (MANU-SC-0305-1968) it was held that whole object of Section-9A of ID Act is apparently to prevent a unilateral action on the part of the employer changing the conditions of the service to the prejudice of the workmen.

In Union of India and Others Vs. S.L. Abbas (MANU-SC-0370-1993) it was held that "the order of transfer can be questioned in a Court or Tribunal only where it is passed mala fide or where it is made in violation of statutory provisions".

In Jaydeep Chaudhary and Others Vs. State of UP and Others (MANU-UP-0873-2010) the High Court of Allahabad held that "courts should not interfere with a transfer order which is made in public interest and for administrative reasons unless the transfer order is made in violation of any mandatory statutory rule or on the ground of mala fide".

16. None of the grounds urged or none of the materials relied on by the petitioner is helpful to advance the case that the impugned transfer of the workmen is bad for any reason. What appears is that here is a group of workmen who wanted their convenience, well-being and comfort to be protected leaving the wide and broad public interest of the Respondent Management, a banking institution established for the well-being of the Society.

The employees should have had embraced their order of transfer which is only an intra-city transfer and which is also one among their demand/aspiration for being part of retail banking segment. There has not been any statutory, legal or settled or vested right in their favour to stand against the impugned transfer. Only by reason of a practice or for want of a necessity or some policy of the Management or for other reason of uniqueness as the only branch or office of the institution in the given city that if they did not happen to be transferred so far that perse does not blossom into a right in favour of the petitioners not to be transferred at all if it becomes necessary to transfer them later. They have no vested right against transfer to any other station to be safeguarded or got enforced under law. Management has every right to transfer them and the transfer effected on the employees have been to their least inconvenience. The transfer order is not unilateral, arbitrary or mala fide. The impugned transfer is not in violation of any provisions, rules, settlements, agreements or principles of natural justice. There is no mala fides in the transfer. It does not amount to change in service conditions. The same service conditions which had been enjoyed by the employees are sought to be protected in the new environment. There is no violation of Section-5(i) of the IDBI Repeal Act, 2003 or Section-25(FF)(b) of the ID Act, 1947. The action against the order of transfer of Management sounds unreasonable and improper. The employees should fail in their claim, in fact with a liability to pay costs to the Respondent/Management. But I do not make an order to pay costs as it is deemed fit.

17. Resultantly, it is held that the impugned transfer is legal and justified. The Petitioner Association, therefore, is not entitled to any relief. The reference is answered accordingly.

A. N. JANARDANAN, Presiding Officer

Witnesses Examined:

For the 1st Party/ : WW1, SRI K. Sathyanarayanan
Petitioner
For the 2nd Party/ : MW1, Sri M. Arumugam
Management : MW2, Sri Sathyavijay
Bhalachandra Rane

Documents Marked :

From the Petitioner's side

Ex. No.	Date	Description
Ex.W1	24-01-2009	Order No. 3984 dated the 24th January, 2009—Impugned Officer Order.
Ex.W2	23-01-1998	Sanction of additional posts.
Ex.W3	June 1998	Advertisement issued by the bank - Class-III Recruitment.

Ex.W4	2005	Advertisement issued by the Bank—Class-III Recruitment.	Ex.W22	1977	Copy of the constitution of the IDBI Employees Association. Chennai.
Ex.W5	2009	Advertisement issued by the Bank - Officer's cadre.	Ex.W23	2-02-2010	Recovery of subscription under "Check Off System-Copy of Bank's advice".
Ex.W6	12-01-1982	Bank's offer letter - Smt. C.K. Lalitha.	Ex.W24	1-10-2009	Bank's Circular Ref. IDBI Bank 2009-10/186/HR/HR 50 dated 1-10-2009.
Ex.W7	20-01-1984	Bank's offer letter - Kum. S. Mallika.	Ex.W25	2009	Recruitment of Executives on Contractual basis, Asstt. Manager, Manager and Assistant General Manager.
Ex.W8	23-08-2005	Bank's offer letter - Kum. Deepa Sundaram.	Ex.W26	28-04-2009	Copy of Bank's letter Ref. No. 76/HRO 57 with regard to request transfer of Smt. Saroja Anbusamy, Special Assistant
Ex.W9	9-10-2007	Bank's offer letter - Recruitment of Executive.	Ex.W27	2004	2004-05 - Interim Budget speech of Hon'ble Finance Minister
Ex.W10	4-12-2009	Bank's offer letter - Recruitment of Executive.	Ex.W28	1970	Copy of Nationalization of Banks Act, 1970
Ex.W11	3-02-2003	Memorandum—Inter Office Transfer.	Ex.W29	1947	Copy of Industrial Disputes Act, 1947
Ex.W12	19-03-1998	Seniority List of Class-III/IV Staff.	Ex.W30	14-02-2006	Copy of legal opinion given by Sri Gopal Subramaniam, Present Solicitor General
Ex.W13	31-12-2003	IDBI (Transfer of Undertaking and Repeal) Act, 2003.	Ex.W31	10-10-2004	Copy of Bank's letter Ref.No. HRO.No. 1518 dated 01.10.2004 addressed to Assistant Commissioner of Labour(Central), Mumbai-400022
Ex.W14	08-12-2003	Extract of the relevant portion of the debate on IDBI (Transfer of Undertaking and Repeal) Bill, 2002 in Lok Sabha on 8-12-2003.	Ex.W32	17.03.2006	Copy of Bipartite Settlement on wages dated 17-03-2006 in respect of Class-III Staff
Ex.W15	15-12-2003	Extract of the relevant portion of the debate on IDBI (Transfer of Undertaking and Repeal) Bill, 2002 in Lok Sabha on 15-12-2003.	Ex.W33	17.03.2006	Copy of Bipartite Settlement on wages dated 17-03-2006 of Class-IV Staff
Ex.W16	19-12-2003	Calling Attention Motion in Lok Sabha on 19-12-2006 - Text of the debate.	Ex.W34	13.10.2006	Copy of Office Order No. 1910 dated 13-03-2008 issued by the Bank posting Class-III and IV Staff to various business verticals
Ex.W17	25-02-2009	Reply to Unstarred Question No. 672 by Hon'ble Minister of State for Finance in Lok Sabha on 25-02-2009.	Ex.W35	12.12.2008	Extract of the reply given by the Hon'ble Minister of State for Finance to Unstarred Question No. 2124 in Lok Sabha
Ex.W18	5-3-2004	Minutes of Bi-partite meeting held on 5-3-2004.	Ex.W36	25.02.2009	Extract of the debate on calling attention motion in Lok Sabha on 25-02-2009
Ex.W19	21-09-2004	IDBI Management's letter dated 21-09-2004.			
Ex.W20	26-04-1985	Extract of provision contained in Para-2(d) of Part-1, Section-B of the Bipartite Settlement dated 26-04-1985 on Promotion Avenues.			
Ex.W21	16-08-2005	Bi-partite Agreement signed by IDBI and AIIDBEA on August 16, 2005.			

Ex.W37	18-06-2009	Copy of letter Ref. No. 11/PCB/2008/R-367 dated 18-06-2009 received from the Petitions Committee, Lok Sabha, New Delhi	Ex.M5		Staff Rules 1980 (Amended upto 02-05-2002)
			Ex.M6	29-09-2004	Circular issued by AIIDBEA (Mumbai)
Ex.W38	04-02-2009	Copy of e-mail dated 04-02-2009 issued by Corporate Office identifying branches as "Corporate" and "Retail" branches	Ex.M7	01-10-2004	Strike Notice issued by AIIDBEA, Bombay
			Ex.M8	16-08-2005	Memorandum of Settlement between Management of Bank & AIIDBEA
Ex.W39	16-05-2006	Copy of Circular Ref.HRD.No. CB2 dated 16-05-2006 issued by the Corporate Head - HR calling for options from Officers for posting in branches attending to commercial bank operations	Ex.M9	20-01-2007	Supplemental Memorandum of Settlement between IDBI and AIIDBEA (Class-III)
			Ex.M10	31-07-2006	Letter written by Mr. C. Chaturvedi, Joint Secretary to Mr. Shetty, Ref No. DO No. 11/1/2006 - HR
Ex.W40	24-06-2006	Copy of Office Order No. 319 dated 24-06-2006 posting Offices in branches attending to commercial banking operations	Ex.M11	24-01-2009	Office Order No. 3984 - Notice of transfer of employees issued by IDBI
Ex.W41	24-12-2010	Memorandum of Settlement dated March, 4, 1995 between the All India Industrial Development Bank Employees' Association (AIIDBEA) and the Management of the Industrial Development Bank of India (the Bank)	Ex.M12	22-10-1981 12-01-1982 06-12-1983 19-12-1983 20-01-1984 26-03-1979 27-09-1988	Letters of Offer issued to 8 Clerical Staff containing Terms and Conditions of Employment at the time of joining
Ex.W42	—	Memorandum of Settlement dated 28th September, 1995 between the Management of Industrial Development Bank of India and all India Industrial Development Bank Employees Association		& 03-03-1983	
			Ex.M13	30-10-1981 20-01-1982 19-12-1983 09-04-1984 01-02-1984 26-03-1979 12-10-1988	Letters of Acceptance of 8 Clerical Staff of the Terms and Conditions of Employment at the time of joining
Ex.W43	—	Memorandum of Settlement dated 24th November, 2000 between the Management of Industrial Development Bank of India and the All India Industrial Development Bank Employees Association		& 05-03-1983	
			Ex.M14	06-12-1979	Office Order appointing Mr. T. L. Appan as a Part Time Peon
			Ex.M15	31-10-1980	letter issued by IDBI regularizing Mr. T.L. Appan's services as a Full Time Peon
From the Management's side			Ex.M16	17-03-2006	Memorandum of Settlement between Management of IDBI and AIIDBEA
Ex.No.	Date	Description	Ex.M17	26-03-2009	Government of India Order L-12011/9/2009-Karmachari Sangh in ID No. 94/2009
Ex.M1	01-10-2004	Scheme of Amalgamation	Ex.M18	26-03-2009	Government of India Order L-12011/24/2009-Manju Chandoke in ID No. 94/2009
Ex.M2	15-04-2005	RBI Communication determining IDBI as Banking Company under New Sub-Group			
Ex.M3	04-12-2002	IDBI (Transfer of Undertaking and Repeal) Bill, 2002			
Ex.M4	30-12-2003	The Industrial Development Bank (transfer of Undertaking and Repeal) Act, 2003			

ExM19	06-04-2009 08-05-2009 & 27-05-2009	Letters inviting AIIDBEA for discussion issued by IDBI
ExM20	28-04-2009	Memorandum for transfer of Class-III staff to Coimbatore 76-HRD57 issued by IDBI
ExM21	01-10-2004	Voluntary Retirement Scheme 2004-2005 of IDBI
ExM22	09-02-2009	Letter issued by IDBI to the Assistant Labour Commissioner (Central), Chennai
ExM23	07-05-2009	Letter issued by IDBI Employees Association to the Assistant Commissioner of Labour (Central)-II, Chennai
ExM24	10-07-2009	Letter issued by GM & Regional Head - CMG to Asstt. Labour Commissioner (Central) - II, Chennai
ExM25	01-10-2009	Letter to all heads of Department - Re-Scheme of Amalgamation
ExM26	03-04-2003 04-04-2003 07-05-2003 22-04-2003 24-04-2003 17-06-2003	Copies of Bi-Annual Meeting
ExM27	02-02-2010 And 17-03-2010	Letters issued by IDBI as regards Check-Off
ExM28	01-12-2008	HRD No. 3843/Staff.132-Reply filed by the Bank before Assistant Commissioner of Labour (Central), Mumbai
ExM29	10-11-2008	Reply filed by the AIIDBEA before the Assistant Commissioner of Labour (Central), Maharashtra (Mumbai)
ExM30	02-03-2009	ACL/ADI/7(24)/2009-Reply filed by the AIIDEA before Assistant Commissioner of Labour (Central), Ahmedabad
ExM31	27-04-2010	Memorandum of Settlement between Management of 46 Banks and their workmen
ExM32	—	Office Orders transferring employees to various Branches all over India of IDBI

नई दिल्ली, 27 अप्रैल, 2011

का.आ. 1343.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोलकाता पोर्ट ट्रस्ट के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 25/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 21-4-2011 को प्राप्त हुआ था।

[सं. एल-32011/3/2006-आई आर (बी-II)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 27th April, 2011

S.O.1343.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 25/2006) of the Central Government Industrial Tribunal/Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the management of Kolkata Port Trust and their workman, received by the Central Government on 21-4-2011.

[No. L-32011/3/2006-IR(B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA

Reference No. 25 of 2006

Parties: Employers In relation to the management of
Kolkata Port Trust

AND

Their workmen

Present : Mr. Justice Manik Mohan Sarkar, ... Presiding
Officer

APPEARANCE:

On behalf of the : Mr. Arunava Ghosh, Advocate
Management with Mr. P.K. Mitra, Advocate.On behalf of the : Mr. S.K. Mukherjee, Advocate
Workmen with Mr. Ibrahim Sheikh,
Advocate.

State : West Bengal

Industry : Port & Dock

Dated : 13th April, 2011.

AWARD

By Order No. L-32011/3/2006-IR(B-II) dated 07-08-2006 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Haldia Dock Complex (Kolkata Port Trust) In compulsorily retiring S.K. Hussain Ahmed. Cook-cum-Boy of M.O. Division, Haldia Dock Complex is legal and justified? If not, what relief the concerned workman is entitled?”

2. In view of the contents of the written statement of claim the workman S.K. Hussain Ahmed was provisionally appointed as Cook-cum-boy at Haldia Dock Complex by an order dated 03-03-2000 and subsequently he was permanently absorbed in the said post with effect from 05-03-2001 and he sincerely attended all posting orders issued by the management. At the time of appointment the concerned workman submitted family bio-data or family declaration which included his grand-mother, handicapped and infirm brothers besides his parents and they were seriously ill and handicapped leaving the workman concerned being the only fit member of his family. The workman concerned was to shoulder the entire pressure of the family and for that reason they were required constant observation and assistance from this workman. On the other side, according to his service condition, the worker was to stay at Haldia for 24 hours and thereby the present workman had to stay at Haldia being separated from his family causing serious anxiety and tension in the mind of the workman concerned. Workman concerned came to know that one employee of Kolkata Dock labour Board was interested to get transfer to Haldia and for effecting a mutual transfer, the present workman immediately applied to the Deputy Chairman, Kolkata Port Trust on 30-04-2001 for mutual transfer with Sk. Tahabul Islam-I the said interested workman at Kolkata Dock labour Board. But no action was taken on such application of the workman as the management remained silent and so the present workman submitted further application for such mutual transfer to Kolkata from Haldia on humanitarian ground on 13-06-2001. Unfortunately, this time also management remained silent without any reply. In the mean time the management invited application for Class-IV job under the Haldia Coordination Cell at Kolkata and immediately the workman applied for the same in the prescribed application form and given a declaration in the application form that he was ready to relinquish additional benefit he was receiving at Haldia and the said application was submitted by him on 14-06-2001. But this application was not also considered, and, rather, rejected by the authority. The workman then continued to submit repeated applications to the management. Subsequently, on 07-05-2003 the management by a letter intimated the workman that his request could not be considered. The workman alleged the rejection of his applications by the management as motivated and vindictive in nature and with ulterior motive to harass the workman concerned. In the meantime the condition of the father of the workman concerned deteriorated seriously and on receipt of the

said information the workman had to leave station to attend his father without prior intimation on 09-08-2003, though the workman intimated such fact from his residence and prayed for sanction of leave. Since the father of the workman did not recover fully, the workman time to time applied for extension of leave and he had no knowledge whether his prayer for leave and extension of leave was entertained. The workman became surprised to receive a chargesheet dated 18/24 March, 2004 and the workman concerned replied to the chargesheet in due time and thereafter the management arranged for a domestic enquiry against the present workman on the charge of unauthorized absenteeism. The workman attended the enquiry and the Enquiry Officer assured the workman concerned that he would not do any harm to him and would conduct the enquiry in a sympathetic way. At the end the Enquiry Officer, being in line with the management, submitted his report by holding the workman concerned guilty for the charges levelled against him. The management after receiving the report from the Enquiry Officer issued a notice of compulsory retirement as a measure of punishment to the concerned workman from service without offering any opportunity to show cause against such punishment.

3. The management relied upon its written objection (perhaps it is a written statement) and stated that the job of Cook-cum-Boy is a very responsible job, the service condition of such job was for 24 hours presence at the site (inside the marine tug) and to prepare food for engineers who were on emergency duty of the Port and such Cook-cum-Boys are for continuous duty for 8 days and 4 days' roster off and thereafter 73% of pay as consolidated overtime is paid to them for their continuous duty apart from permissible leave under the rules. The present workman since after joining the said duty at Haldia Dock Complex was a habitual and regular absentee. The workman applied for leave on 28th July, 2003 to 18th August, 2003 which was not granted due to exigencies of service and such decision was duly intimated to him. In spite of such intimation the workman left his work place and abandoned duties without permission. However, the management requested him to resume his duties forthwith and thereby he resumed his duties on 6th August, 2003. But again on and from 9th August, 2003 he left his work place without intimating and/or obtaining permission or approval from the management. On coming to know about such fact, the management once again directed the said workman to resume his duties forthwith but this time the workman failed and/or neglected or refused to join his duties and remained absent thereafter. Such long habitual conduct of the workman seriously jeopardized the smooth function of the work at Haldia Dock Complex. For such voluntary act on the part of the workman to remain absent without permission or approval of the management amounted to gross misconduct and for that reason the management

had no other way but to take steps for initiation of disciplinary-proceeding against him and subsequently on 24th March, 2004 the disciplinary authority issued a charge-sheet under Regulation 8 of the Calcutta Port Trust Employees (Classification, Control and Appeal) Regulation, 1987 and the workman was served with the charge-sheet. The workman duly appeared before the Enquiry Officer and pleaded guilty of the charges levelled against him. After conclusion of the enquiry, the Enquiry Officer submitted his report and finding to the disciplinary authority holding the charges as established. A copy of the said report was sent to the workman for information with direction to submit his representation which was subsequently submitted by the workman and accepted the contentions of the Enquiry Officer and did not repudiated the enquiry report and finding but rather pleaded again his request for transfer to Kolkata. Subsequently on 10th December, 2004 the disciplinary authority upon consideration of the enquiry report and finding and the documents on record, was of the opinion that the workman was no longer interested to serve his duties at Haldia Dock Complex. So a punishment by ordering compulsory retirement from service was passed and such order was served upon the workman concerned. The workman being aggrieved by such order of the disciplinary authority preferred an appeal before the appellate authority on 28-12-2004 which also passed an order on 30th June, 2005 after careful consideration of the appeal. The management has claimed that the claim of the workman does not have any merit whatsoever and the present proceeding is alleged to have initiated with an intention to mislead the Tribunal and should be dismissed in limine.

4. In the rejoinder, the workman repeated the story made in his statement of claim and added that due to various circumstances beyond control of the petitioner had to apply for leave before leaving the work site but the management never intimated the fate of the application for leave.

5. Management side initiated the argument firstly claiming that as the order of compulsory retirement is not an order of dismissal or discharge, the only provision under the Act under Section 11A of the Industrial Disputes Act, 1947 to challenge the adequacy of punishment cannot be made. Further, it has been stated that as the validity of the domestic enquiry was not challenged by the workman, it may be presumed that it was properly done and no unfair labour practice was caused and thereby the order of compulsory retirement as ordered by the disciplinary authority should not be interfered in this Tribunal as the position of law prescribes that if the enquiry was done validly and without unfair labour practice, the domestic enquiry report and the penal order by the disciplinary authority cannot be interfered in a reference under the Industrial Disputes Act as it provides no relief besides an

order of dismissal or discharge as provided under Section 11A of the Act.

6. On the other hand, the Ld. Advocate for the workman submitted that the order of compulsory retirement by way of punishment on the basis of report in domestic enquiry, can be interfered into by the Tribunal since compulsory retirement is in the nature of dismissal from the service and on that issue the Ld. Advocate for the workman relied upon a decision reported in AIR 1985 SC 931 where the Hon'ble Court held that where the relevant service rules fixed both an age of superannuation and an age of compulsory retirement and the services of a Government servant governed by the rules are terminated between these two points of time, the order of compulsory retirement could not be said to cast a stigma and would not attract Article 311. But where there is no rule fixing the age of compulsory retirement or if there is one and the servant is retired before the age prescribed therein, then that can be regarded only as dismissal or removal within Article 311(2) of the Constitution of India. But, in the present context, the workman concerned is guided under the provision of the Industrial Disputes Act and compulsory retirement has not been defined as termination of service by way of dismissal or discharge.

7. In this context, it may be presumed that when the provision of Section 11A of the Act has specifically conferred jurisdiction upon the Tribunal to interfere in the penalty of dismissal or discharge on domestic enquiry report, the punishment of compulsory retirement will come at par with such penalty order of dismissal or discharge as order of dismissal or discharge does not give any benefit of gratuity, compensation etc. which a workman with penal order of compulsory retirement does get. Further, I agree to the submission made by Mr. Ghosh on behalf of the management about the applicability of the decision cited on behalf of the workman as above since it was done in the writ jurisdiction of the Hon'ble Apex Court under the provision of the Constitution of India and the present Tribunal has a limited area of action within the provision of the Industrial Disputes Act and thus cannot go beyond it to exercise jurisdiction or the process of judicial review over the matter.

8. Further, it is found that the domestic enquiry was not challenged by the workman as devoid of natural justice towards him since the workman himself pleaded his guilt before the Enquiry Officer but again raised a plea for his transfer to any post in Group-IV at Kolkata Port Trust or Kolkata Dock Labour Board establishment.

9. The workman himself has admitted that he was in the habit of leaving his place of employment without obtaining prior leave or permission from the authority under whom he was working though he stated that he used to make application for leave. A submission has been made on behalf of the management that the nature of job of the

workman concerned was very emergency one and such workman cannot leave his place of employment off and on as per his whim and he has to obtain prior leave or permission so that a reliever can be deputed in his place.

10. It is also revealed from the record that on repeated occasions, the management side used, to issue letter to the workman concerned to join his duties after he used to leave his place of employment without taking leave or permission and sometimes he used to join and sometimes he used to ignore it and this act on the part of the workman has been defined by Mr. Ghosh, Ld. Advocate for the management as an act of defiance and insubordination and gross misconduct on the part of the workman.

11. It is fact as it is revealed from the materials of the respective parties in the record that the workman concerned has joined the posting at Haldia Dock Complex to the post of Cook-cum-Boy by knowing all the terms and conditions of service and it was stated by the management that proper medical facilities along with provision of residence at his place of posting were used to be provided by the management, if required.

12. A long absence from the place of posting is not an offence, if it is with a pre-obtained leave and permission from the authority concerned but leaving the place of employment by way of desertion even for few days without any leave or permission from the granting authority, amounts to misconduct as rightly claimed from the side of the management.

13. In this context a reference can be made to the decision reported in (2008) 1 S.C.C. 224 (L & T Kanatsu Limited v. N. Udayakumar) wherein the Hon'ble Apex Court held that

"It is settled that habitual absenteeism means gross violation of discipline.

When the factual background is considered in the light of principles enunciated in case law for exercise of jurisdiction under Section 11A of the Industrial Disputes Act, 1947 the inevitable conclusion is that a Labour Court and the High Court were not justified in directing the reinstatement by interference with the order of termination."

14. So, it is found that Hon'ble Apex Court also held that the habitual absenteeism is a gross violation of discipline or work culture and in the words of the management it is a gross misconduct. Though the workman is guilty of such gross misconduct, the management side did not punish him with the order of dismissal or discharge but rather has ordered him with the mild termination of service by way of compulsory retirement which is followed with some retirement benefit. In such circumstance, since the order of compulsory retirement gives no course of interference within the provision of Industrial Disputes Act and also since long and habitual absenteeism is stated

to be a gross misconduct, I do not find any reason to interfere with the order passed by the disciplinary authority and I am of the view that the action of the management of Haldia Dock Complex (Kolkata Port Trust) in compulsorily retiring the workman Sk. Hossain Ahmed, Cook-cum-Boy of M.O. Division, Haldia Dock Complex is legal and justified. In consequence of the said finding, the workman concerned is not entitled to get any relief.

An Award is passed accordingly.

JUSTICE MANIK MOHAN SARKAR, Presiding Officer

Kolkata, Dated
the 13th April, 2011

नई दिल्ली, 29 अप्रैल, 2011

का.आ. 1344.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम और रोजगार मंत्रालय की अधिसूचना दिनांक 26-10-2010 द्वारा युरेनियम उद्योग जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 19 में शामिल है को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 11-11-2010 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की ओर कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 11-05-2011 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. सं. एस-11017/9/97-आईआर (पीएल)]

रवि माथुर, अपर सचिव

New Delhi, the 29th April, 2011

S.O. 1344.—Whereas the Central Government having been satisfied that the public interest so requires that in pursuance of the provisions of sub-clause (vi) of the clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour & Employment dated 26-10-2010 the service in Uranium Industry which is covered by item 19 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a Public Utility Service for the purpose of the said Act, for a period of six months from the 11th November, 2010.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a Public Utility Service for the purposes of the said Act, for a period of six months from the 11th May, 2011.

[F.No. S.11017/9/97-IR(PL)]
RAVI MATHUR, Addl. Secy.

नई दिल्ली, 2 मई, 2011

का.आ. 1345.—केन्द्रीय सरकार संतुष्ट हो, जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम और रोजगार मंत्रालय की अधिसूचना दिनांक 8-10-2010 द्वारा भारतीय रिजर्व बैंक नोट मुद्रण लिमिटेड, मैसूर (कर्नाटक) एवं सालबोनी (पश्चिम बंगाल) जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 25 में शामिल है को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 15-11-2010 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की ओर कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 15-05-2011 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. सं. एस-11017/2/96-आईआर (पीएल)]
रवि माथुर, अपर सचिव

New Delhi, the 2nd May, 2011

S.O. 1345.—Whereas the Central Government having been satisfied that the public interest so requires that in pursuance of the provisions of sub-clause (vi) of the clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour and Employment dated 8-10-2010 the services in the Bhartiya Reserve Bank Note Mudran Limited, Mysore (Karnataka) and Salboni (West Bengal) which is covered by item 25 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a Public Utility Service for the purpose of the said Act, for a period of six months w.e.f. 15-11-2010.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a Public

Utility Service for the purposes of the said Act, for a period of six months w.e.f. 15-05-2011.

[F.No. S-11017/2/96-IR(PL)]

RAVI MATHUR, Addl. Secy.

(रोजगार एवं प्रशिक्षण महानिदेशालय)

नई दिल्ली, 2 मई, 2011

का.आ. 1346.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976, यथा संशोधित 1987 के नियम 10 के उप-नियम (2) एवं (4) के अनुसरण में एतद्वारा रोजगार एवं प्रशिक्षण महानिदेशालय (श्रम और रोजगार मंत्रालय) के निम्नलिखित अधीनस्थ कार्यालयों को जिनके कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :

- (क) अनुसूचित जाति/जनजाति हेतु अध्यापन सह मार्गदर्शन केंद्र, कमरा सं. 124, प्रथम तल, तहसील कॉम्पलेक्स, जालंधर।
- (ख) अनुसूचित जाति/जनजाति हेतु अध्यापन सह मार्गदर्शन केंद्र, ए.टी.आई परिसर, विद्यानगर, हैदराबाद-500007
- (ग) क्षेत्रीय महिला व्यावसायिक प्रशिक्षण संस्थान, आई टी आई कैम्पस, तरसाली रोड, वडोदरा-390009
- (घ) अनुसूचित जाति/जनजाति हेतु अध्यापन सह मार्गदर्शन केंद्र, बैरक सं. 4, यूनिट 5, भुवनेश्वर-751001 (उड़ीसा)

[सं. डीजीईटी-ई-11017/2/2010-हिंदी/1405-1568]

तरसेम लाल, उप सचिव

(Directorate General of Employment and Training)

New Delhi, the 2nd May, 2011

S.O. 1346.—In pursuance of sub-rule (2) and (4) of rule 10 of the Official Languages (Use for official purposes of the Union) Rules, 1976, as amended 1987, the Central Government hereby notifies the following Subordinate Offices of the Directorate General of Employment and Training (Ministry of Labour & Employment), the staff whereof have acquired the working knowledge of Hindi:

- A. Coaching-cum-Guidance Centre for SC/ST, Room No. 124, 1st floor, Tehsil Complex, Jalandhar.
- B. Coaching-cum-Guidance Centre for SC/ST, A.T.I. Campus, Vidyanagar, Hyderabad - 500007.
- C. Regional Vocational Training Institute for Women, I.T.I Campus, Tarsali Road, Vadodara-390009.
- D. Coaching-cum-Guidance Centre for SC/ST, Door No. 2, Barrack No. 4, Unit-5, Bhubaneswar-751001 (Orissa)

[No. DGET-E-11017/2/2010-Hindi/1405-1568]

TARSEM LAL, Dy. Secy.